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CONTENTS OF NO. LXXVII.

ART. I. Finance Accounts of the United Kingdom for the year ended 5th January, 1823. Printed by Order of the House of Commons, 25th March, 1823	p. 1
II. A Letter to the Chairman of the Committee of the House of Commons, on the Game Laws. By the Hon. and Rev. William Herbert	43
III. An Authentic Narrative of the Extraordinary Cure performed by Prince Alexander Hohenlohe on Miss Barbara O'Connor, a Nun, in the Convent of New-Hall, near Chelmsford; with a full Refutation of the numerous False Reports and Misrepresentations. By John Badelly, M. D.	54
IV. The Select Melodies of Scotland, interspersed with those of Ireland and Wales, &c. By George Thomson, F.A.S. Edin.	67
V. Royal Memoirs on the French Revolution; containing, I. A Narrative of the Journey of Louis XVI. and his Family to Varennes. By Madame Royale, Duchess of Angouleme. II. A Narrative of a Journey to Bruxelles (qu. Brussels?) and Coblenz, in 1791. By Monsieur, now Louis XVIII. III. Private Memoirs of what passed in the Temple, from the Imprisonment of the Royal Family to the Death of the Dauphin. By Madame Royale, Duchess of Angouleme. With Historical and Biographical Illustrations by the Translator	84
VI. Reasons for the Immediate Repeal of the Tax on Foreign Wool. By James Bischoff	109
VII. Thoughts on the Necessity of Improving the Condition of the Slaves in the British Colonies, with a View to their ultimate Emancipation; and on the Practicability, the Safety, and the Advantages of the latter Measure. By T. Clarkson, Esq.	118
VIII. Travels through Denmark, Sweden, Lapland, Finland, Norway, and Russia. By the late E. D. Clarke, LL.D.	140

CONTENTS.

ART. IX.	1. Annals of the Parish, or the Chronicle of Dalmailing, during the Ministry of the Rev. Micah Balwhidder. Written by Himself.	
	2. The Ayrshire Legatees, or the Pringle Family. By the Author of Annals of the Parish, &c.	
	3. The Provost. By the Author of Annals of the Parish, Ayrshire Legatees, &c.	
	4. Sir Andrew Wylie of that Ilk. By the Author of Annals of the Parish, &c.	
	5. The Steam Boat. By the Author of Annals of the Parish, &c.	
	6. The Entail, or the Laids of Grippy. By the Author of Annals of the Parish, Sir Andrew Wylie, &c.	
	7. Ringan Gilhaize, or the Covenanters. By the Author of Annals of the Parish, &c.	
	8. Valerius, a Roman Story.	
	9. Lights and Shadows of Scottish Life.	
	10. Some Passages in the Life of Mr Adam Blair, Minister of the Gospel at Cross-Meikle.	
	11. The Trials of Margaret Lindsay. By the Author of Lights and Shadows of Scottish Life.	
	12. Reginald Dalton. By the Author of Valerius, and Adam Blair	p. 158
X.	Reliquiæ Diluvianæ; or, Observations on the Organic Remains contained in Caves, Fissures, and Diluvial Gravel, and on other Geological Phenomena, attesting the Action of an Universal Deluge. By the Reverend William Buckland, B.D. F.R.S. F.L.S.	196
XI.	Memoirs of the Baron de Kolli, relative to his Secret Mission in 1810, for liberating Ferdinand VII. King of Spain, from Captivity at Valençay. Written by Himself. To which are added, Memoirs of the Queen of Etruria. Written by Herself	234
XII.	Observations on the Judges of the Court of Chancery, and the Practice and Delays complained of in that Court	246
	Quarterly List of New Publications	261

CONTENTS OF NO. LXXVIII.

- ART. I. 1. Remarks on the Declarations of the Allied Powers from Verona. By an Englishman.
2. Britannia's Letters to a British Prince, on the Holy Alliance.
3. The Domestic Policy of the British Empire, viewed in connexion with its Foreign Interests - p. 281
- II. 1. A Letter to the Right Honourable Robert Peel, one of his Majesty's Principal Secretaries of State, &c. &c. &c. on Prison Labour. By John Headlam, M.A.
2. Information and Observations, respecting the proposed Improvements at York Castle. (Printed by Order of the Committee of Magistrates, September 1823.) - 299
- III. 1. Draft of proposed Bill for repealing several Acts relating to Combinations of Workmen, and for more effectually protecting Trade, and for settling Disputes between Masters and their Workpeople. Ordered by the House of Commons to be printed, 22d April, 1823.
2. Considerations on Emigration - 315
- IV. A Critical Inquiry into Ancient Armour, as it existed in Europe, but particularly in England, from the Norman Conquest to the Reign of King Charles II.; with a Glossary of Military Terms, &c. By Samuel Rush Meyrick, LL.D. 346
- V. Essays on Constitutional Law and the Forms of Process; containing Suggestions for shortening the Duration, and lessening the Offence, of Judicial Procedure in the different Courts in Scotland. By William Ritchie. 363
- VI. 1. Silva de Viejos Romances. Publicada por Jacobo Grimm.
2. Sammlung der besten Alten Spanischen, Historischen, Ritter und Maurischen Romanzen. Von Ch. B. Depping.
3. Floresta de Rimas Antiguas Castellanas. Por D. J. Nicholas Böhl de Faber - 393

ART. VII. 1. The Jurisdiction of the Lords' House of Parliament considered, according to Ancient Records. By Sir Matthew Hale: To which is prefixed, by the Editor, F. Hargrave, Esq., an Introductory Preface, including a Narrative of the same Jurisdiction, from the Accession of James I.	
2. Observations on the Delays complained of in the Court of Chancery and House of Lords	p. 432
VIII. Observations on the Trade with China	458
IX. The Holy Alliance <i>versus</i> Spain; containing the Notes and Declarations of the Allied Powers, with the Replies of the Spanish Cortes. By a Constitutionalist.	467
X. An Elementary Introduction to the Knowledge of Mineralogy; comprising some Account of the Characters and Elements of Minerals; Explanations of the Terms in common use; Descriptions of Minerals, with Accounts of the Places and Circumstances in which they are found, and especially the Localities of British Minerals. By William Phillips, F. L. S. M. G. S. L. &c.	488
Quarterly List of New Publications	502
Index	519

ERRATA IN No. 77.

- Page 202, l. 6, from bottom, *for* 'vehicles' *read* 'vesicles.'
- 204, l. 3, *for* 'easily' *read* 'rarely.'
- 205, l. 5, from bottom, dele the words 'and tested by him.'
- 215, last line note, *for* 'construction' *read* 'destruction.'
- 218, l. 5, *for* 'tabular' *read* 'tubular.'
- 228, l. 24, *for* 'concurrence' *read* 'occurrence.'
- 233, l. 24, *for* 'successive inundations,' *read* 'successive inundation.'
- — 1. 28, *for* 'but to a certain proportion,' *read* 'but a certain proportion.'

EDINBURGH REVIEW,

OCTOBER, 1823.

N^o. LXXVII.

ART. I. *Finance Accounts of the United Kingdom ended 5th January, 1823.* Printed by order of Commons, 25th March, 1823.

THE expenses necessarily incurred in conducting the government of a civilized nation in time of peace, rarely exceed the amount of its ordinary revenue. In time of war, however, the case is extremely different. When the independence and honour of a nation are at stake, proportional sacrifices must be made to maintain them. Hostile aggression and insult must be opposed and avenged. But to do this, extraordinary funds are necessary; and the inquiry, how they may be most advantageously provided, is plainly one of the highest importance to every people.

It was the common practice of antiquity to make provision in times of peace for the necessities of war, and to hoard up treasures beforehand as the instruments either of conquest or defence; without trusting to extraordinary imposts, much less to borrowing, in times of disorder and confusion. This practice has been commended by Mr Hume. But he has wholly overlooked the circumstance of its being necessary, in order to form such a treasure, to withdraw capital from productive employments;—a circumstance which shows that its effect must be to diminish the industry, and, consequently, the wealth and population of every country in which it is accumulated, and to render it less able to resist the attacks of an enemy. For these and other reasons, this practice is now very generally admitted to have been founded on erroneous principles: and modern politicians and economists seem to be universally of

opinion, that the increased expenditure occasioned by a war, ought either to be entirely defrayed by a proportional increase of taxation, or partly by that means, and partly by loans.

The question, which of these modes should be adopted, has been long and vehemently discussed; and has given rise to the most opposite and contradictory statements. We do not, however, think that there really was, at any time, much room for these differences of opinion; though, if there was, the financial operations of the last thirty years have furnished abundant materials for settling them, and for enabling us to come to a satisfactory conclusion on the subject. This, therefore, has appeared to us as a peculiarly fit period for endeavouring to revive the discussion of this question; not only because we are now in a situation to try the deductions of theory by the results of the most enlarged experience, but because there are several circumstances which render it extremely desirable that the public mind should be well informed on this point. Without being previously acquainted with the principles of the funding system, it is impossible to obtain any accurate knowledge of the financial situation of the country, or to judge of the expediency of the important measures lately adopted with respect to the sinking fund, and the annuities or dead weight. Neither should it be forgotten, that we have no security for the continuance of peace; and that, considering the avowed pretensions of the Holy Leaguers, it is impossible to say how soon we may be reduced to the necessity of choosing between these opposite systems, and of deciding whether we shall raise the supplies for a war within the year by an equivalent increase of taxation, or continue the system of borrowing. But it would be impossible to institute a calm and dispassionate inquiry into the comparative merits of these plans during the bustle and excitement of warlike preparations. A period of peace is the proper period for making such investigations; and we ought not to neglect the opportunity now afforded for considering this important question, and for digesting and maturing whatever measures may be necessary to enable us, on any future emergency, to raise the supplies in the best possible manner. *Promovere, says Count Verri, i lumi e la curiosità nelle materie di Finanza e di Commercio, sarà sempre la preparazione migliore di tutti per comminciar le riforme.**

Before entering on the discussion of the merits of the Funding System, as a plan for providing for the extraordinary ex-

* Meditazioni Sulla Economia Publica, p. 214, ed. 1772.

penses of a state, we may shortly observe, that in its infancy, its nature and effects were very generally misunderstood; and several unfounded opinions were then advanced respecting it, which are not yet entirely relinquished. Bishop Berkeley pretty plainly insinuates, that he considered 'the public funds as a mine of gold.' (Querist, No. 233.) Melon, the author of the *Essai Politique sur le Commerce*, published in 1735, does not go quite so far as Berkeley; but he contends, and his opinion has had many supporters, that the debts of a nation are *debts of the right hand to the left*; and that they have no tendency either to increase or diminish national wealth. (p. 296, ed. 1736.) At length, M. Pinto, a Jew merchant, resident in Holland, and the author of an otherwise ingenious work, *De la Circulation et du Crédit*, published in 1771, undertook to demonstrate, that the public debt, far from being a burden, was just so much added to the national wealth, by the magical influence of credit! (p. 44.) This ridiculous paradox has since been advocated by Mr Hope of Amsterdam, Mr Gale, and Mr Spence; and, what is still more extraordinary, Mr Justice Bayley was so much captivated by it, that, in an unlucky moment, he left Blackstone for Pinto, and harangued the Grand Jury of Yorkshire on the enriching quality of a large national debt! 'Discourses such as these,' says Hume, in his Essay on Public Credit, 'might naturally have passed for trials of wit among rhetoricians, like the panegyrics on folly and a fever, on Busiris and Nero, had we not seen such absurd measures patronized by great ministers, and even by a whole party amongst us.' The fallacy of these opinions is indeed so glaring and obvious, that it is astonishing they could ever have been entertained. We concede to M. Melon, for it is unnecessary again to notice M. Pinto, that the *interest* of the public debt is a debt of the right hand to the left, or so much wealth transferred from one class of society to another; but the question does not regard the interest, but the **PRINCIPAL** for which the interest is paid. Now, it is certain, that this principal was not made over by one set of individuals to another, but to the Government by whom it has been spent as *revenue*. The capital lent by the stockholders to Government has been annihilated; and, instead of deriving a revenue from it, the revenue of the stockholders is exclusively derived from the capital and industry of others. *

* It is due to M. Gentz, the ablest defender of the Funding System, to state, that he fully admits the truth of this principle. * Le

In order to set the effect of loans on national wealth in a still clearer point of view, let us suppose that a country, with *two* millions of people and four hundred millions of capital, is engaged in war, and that the government borrows and spends fifty millions of the national capital. If the ordinary rate of profit were ten per cent., the annual income of this state previously to the war would be forty millions; but at its close, and after the fifty millions had been borrowed and spent, it would only be thirty-five millions. It is plain, however, that this reduced income would, in future, have to furnish the means of subsistence to the whole *two* millions of inhabitants; and although it is true that the country is not deprived of the interest of the debt, for that is merely transferred from one class to another, it is no less true that *it is deprived* of the income derived from fifty millions of capital; and that the productive power which had formerly fed and clothed an *eighth* part of the whole inhabitants being for ever lost to the state, they have now to depend for subsistence entirely on the exertions of those who, it is probable, could previously with difficulty maintain themselves.

The doctrine we have been endeavouring to elucidate, has been very clearly and ably stated by Mr Justice Blackstone.—‘By means of our national debt,’ says he, ‘the quantity of property in the kingdom is greatly increased in idea, compared with former times; yet, if we coolly consider it, not at all increased in reality. We may boast of large fortunes, and quantities of money in the funds; but where does this money exist? It exists only in *name*, in paper, in public faith, in parliamentary security; and that is undoubtedly sufficient for the creditors of the public to rely on. But then, what is the pledge which the public faith has pawned for the security of these debts? The land, the trade, and the personal industry of the subject, from which the money must arise that supplies the several taxes. In these, therefore, and in these only, does the property of the public creditors really and intrinsically exist; and of course, the land, the trade, and the personal industry of individuals, *are diminished in their true value just so much as they are pledged to answer*. If A’s income amounts to 100*l.* a year, and he is so far indebted to B that he pays him 50*l.* a year of interest, one half of the value of A’s property is transferred to B, the credi-

capital,’ says he, ‘qui a passé des mains des créanciers de l’état dans celles du gouvernement, d’où il sort pour payer les frais d’une guerre, est irrévocablement perdu.’ (Essai sur l’Etat actuel des Finances de la Grande Bretagne. p. 119.)

tor. The creditor's property exists in the demand which he has upon his debtor, and nowhere else; and the debtor is only a trustee to his creditor for one half of the value of his income. In short, the property of a creditor of the public consists in a certain portion of the national taxes; by how much, therefore, he is the richer, by so much the nation which pays those taxes is the poorer.'—(*Commentaries*, Vol. I. p. 327.)

These few observations will serve to show the general nature of the funding system; but they are not enough to determine its merits, as compared with the plan for raising the supplies within the year. Every war must necessarily occasion the waste of capital and of wealth; still, however, it is of the greatest importance to know how these unavoidable consequences may be rendered least injurious, and most speedily repaired; and such is the object of the inquiry on which we are now to enter.

If the facility with which money may be obtained, were the only circumstance to be attended to in comparing the borrowing system with the plan for raising the supplies within the year by a corresponding increase of taxation, there can be no question that the preference would have to be given to the former. The high rate of interest stipulated by Government, the regularity with which it is paid, the facility with which that interest may be disposed off, and the hope, which every one's confidence in his own good fortune makes him entertain, of profiting by the fluctuations in the price of the funds, all conspire to induce a large class of capitalists to accommodate Governments with loans in preference to individuals, and enable them to obtain the largest supplies on the shortest notice, and with very little difficulty. The public, on their part, are equally well pleased with this system. Instead of being called upon to advance a large sum in taxes, they are only taxed to pay the interest of that sum. A burden of this limited extent, as it lays no individual under the necessity of making any considerable reduction in his expenditure, is generally submitted to without a murmur. Such a mode of providing for the expenses of a war, seems to divest it of half its privations and hardships; and we cease to feel surprised that Governments should have so universally resorted to a system which, while it furnishes them with the largest supplies, is so very popular with their subjects.

But the merits of the funding system are not to be determined merely by the facility which it affords for raising supplies. This is a consideration which certainly ought not to be overlooked; but there are others of infinitely greater import-

ance. The real effects of any financial operation can never be ascertained, by looking only to those of which it is immediately productive. We must extend our observations to those which are more remote, and endeavour, if possible, to trace its permanent and ultimate influence. Now, if we do this—if we attend, not to the transitory only, but also to the lasting effects of the funding system on the wealth and industry of every country in which it is adopted, we shall find, that the facility which it gives of raising the supplies, so far from being an advantage, is really one of its greatest defects. It is worse than idle to suppose that any scheme for defraying war expenditure can ever be proposed, capable of protecting individuals from the losses and privations which are inseparable from national struggles and contests. However just and necessary, a war is always in itself an evil of the first magnitude; and every nation which has the misfortune to be involved in it, must sooner or later experience the pernicious effects of the destruction of capital, and of the waste of the means of future production, which it never fails to occasion. Now, it is clear that no scheme of finance can be bottomed on sound principles, whose effect is to disguise these necessary consequences of war, and to deceive the public with respect to their real situation. This, however, is notoriously the case with the funding system. It is said, by its apologists, to require no individual to make any extraordinary sacrifice at any particular period; and in this respect it bears a close resemblance to those most dangerous diseases which steal slowly and imperceptibly on the human constitution, and do not discover their malignant symptoms until they have fastened on the vitals, and vitiated the whole animal economy. There are no means whatever by which the profusion and waste occasioned by a war can be balanced, except by the greater industry and economy of individuals: And to cause this industry and economy to be practised, they ought to be made fully sensible of the influence of war expenditure on their own private fortunes. The radical defect of the borrowing system, consists in its deceiving them on this point, and in its making no sudden encroachments on their comforts. Its approaches are gradual, and almost unperceived. It requires only small immediate sacrifices; but it never relinquishes what it has once gained; while the necessity for fresh sacrifices, arising as well from their own, as from the ambition, rapacity, injustice, and folly of their neighbours, must continue as great as ever. Such a system is essentially delusive and treacherous. It strips the public of one enjoyment after another; and before

they are awakened from their trance, and made acquainted with their actual condition, their property and industry are probably encumbered with a much larger permanent payment, on account of the *interest* of the public debt, than what, had they submitted to it at once, might have been required to defray the whole expenses of the war.

It may perhaps be said, that supposing we are engaged in a war which costs twenty millions a year, it is really the same thing, provided the rate of interest be 5 per cent., whether we pay the twenty millions at once by a proportional increase of taxation, or borrow them, and pay the lenders an interminable annuity of one million a year; for, when interest is at 5 per cent., twenty millions in one payment, and an interminable annuity of one million, are of *precisely the same value*. But it is just because they never have been, and never will be, so considered by the public, that the funding system is injurious. Suppose, for example, that the supplies are raised within the year, and that the share falling to a particular individual is 1000*l.*: The wish to maintain himself in his former station, and to preserve his fortune unimpaired—‘a wish which comes ‘with us from the womb, and never leaves us till we go into the grave’*—would most certainly stimulate him, on being called upon for this sum, to endeavour to discharge it, partly by an increase of exertion, and partly by a saving from expenditure, without suffering it to continue an encumbrance on his property. But, by the system of loans, he is called upon to pay only the interest of this 1000*l.*, or 50*l.* a year; and instead of endeavouring to save the whole 1000*l.*, he is satisfied if he saves the interest. The whole nation, acting in the same way, save only the interest of the loan, or *one* million, and allow the principal sum of *twenty* millions, which they would have either wholly or partly saved had they been called upon to pay it immediately, to remain as a mortgage on their property, or the produce of their industry. Men act thus, because they invariably reckon a war burdensome, only in proportion to what they are at the moment called upon to pay for it in taxes, without reflecting on the probable duration of these taxes. It would be an exceedingly hopeless undertaking to attempt to convince any one that a perpetual payment of 50*l.* a year is as burdensome as a single payment of 1000*l.* We are apt to entertain an idea that some future accident or revolution may occur to relieve our properties from the burden of the perpetual payment; and, at all events,

* Wealth of Nations, II. p. 19.

we consider it as certain, that the greater portion of it will have to be defrayed by posterity. Indeed, this very circumstance of its throwing a portion of the expense of every contest on posterity, or, which is in effect the same thing, its distributing its expense equally over a lengthened period, is one of the arguments principally relied on by the advocates of the funding system. But it is easy to see that this argument is wholly and completely fallacious;—and that the more the interests of posterity can be protected, without injuring those of the existing generation, so much the better. Now, this is what the plan for raising the supplies within the year would really do. Supposing, however, that it did not generate an additional spirit of economy, still its adoption could do no possible harm to the present generation, but would have the very same effect with respect to them and posterity as the system of loans: For, it must obviously be a matter of perfect indifference to the heir of an individual whose share of the expenses of a war amounts to 1000*l.*, whether he pays it at once, and leaves him 1000*l.* less, or does not pay it, and leaves him 1000*l.* more, subject to a constant charge of 50*l.* a year. But it is the peculiar advantage of this plan, that while it entails no greater burden on any individual than the system of borrowing, and while it gives full liberty to every one who is so disposed, to remove a part of that burden from his own shoulders on to those of his successors, it has a powerful tendency to render the public less inclined to avail themselves of this power, and more disposed to make immediate sacrifices, and to become more industrious, frugal, and parsimonious, than they would otherwise have been. It is a gross error to suppose that it protects the interests of posterity, by laying any heavier burden on the existing generation; it does no such thing; it protects them only because it gives additional force to the accumulating principle, and because it stimulates every individual to maintain himself in his station, and to preserve his capital undiminished.

Here, then, is the distinguishing criterion of the two systems.* The funding system occasions only such a small additional degree of exertion and economy as may be required to produce and save the *interest* of the capital that has been spent in warlike operations; but the system of raising the supplies

* This distinction was first clearly pointed out by Mr Ricardo, in his *Principles of Political Economy and Taxation*, 1st Ed. p. 337; and in his article 'Funding System,' in the Supplement to the *Encyclopædia Britannica*.

within the year, gives infinitely greater force and activity to the spirit of exertion and economy, and stimulates the public to exert themselves to produce and save a sum equivalent, not to the interest only, but to the entire CAPITAL that has been spent. If, therefore, the question with respect to the merits of the two systems is to be decided by a comparison of their respective influence on national wealth,—and this is admitted by M. Gentz to be *la premiere consideration, et celle qui doit toujours l'emporter sur toutes les autres*,—there can be no manner of doubt that the preference must be given to the plan for raising the supplies within the year.

But there are other considerations, and those, too, of perhaps still greater importance, which equally show the superior advantages of the plan for raising the supplies within the year. It would teach the Government, as well as the people, to be more frugal and economical, and to conduct the public business on a less extravagant and prodigal scale. The facility with which money is raised by the funding system, has been one of the principal causes of those innumerable wars that have continued to desolate the world since the revival of arts and literature in Europe. It has tempted governments rashly to engage in the most ruinous enterprises; while, by deceiving the people with regard to their inevitable consequences, it has rendered them but too ready to second and applaud the ambitious projects of their rulers. The lottery of war is the most expensive and destructive of all lotteries. Its great prizes—its triumphs and its conquests—however attractive and magnificent they may appear, are but a miserable compensation for the treasure and blood that must be spent in obtaining them. True national prudence is chiefly manifested in avoiding all unnecessary wars, and in terminating those that are necessary, as soon as they can be terminated with safety and honour. There is, however, but one way of teaching either nations or individuals this prudence, or of impressing them with a due sense of the inestimable blessing of peace; and that is, by making them *feel* that war is universally a losing game, and that it is impossible to engage in it without experiencing an instant diminution of comforts and enjoyments. But it is the bane of the funding system, that it conceals these unavoidable consequences for a while; and, by making the people believe that they will never overtake them, it prompts them to set up the most extravagant pretensions, and to manifest a fierce and unaccommodating spirit on occasion of any petty quarrel. The result is—a result not deduced from theory only, but from the *most comprehensive experience*—that

every country which has acted on this system for any considerable period, is inextricably involved in debt and difficulties; that her taxes continue nearly as high in peace as in war; and that, while the weight of her burdens unfits her for engaging in those contests in which she ought perhaps to take a share, they become the source of perpetually recurring convulsions, which have often ended, as they will most probably end again, either in bankruptcy or revolution.

Not only, therefore, would the plan of raising the supplies for a war within the year, by means of additional taxes, be a means of adding increased efficacy to the parsimonious principle, and of stimulating individuals to defray their share of the public expenditure, by increased exertion, and by making a proportional deduction from their *own* expenditure; but it would also, by making us feel the whole pressure of it at once, render us less disposed wantonly to engage in any expensive contest, and more disposed to embrace the earliest opportunity of making peace on fair and liberal terms. To a nation who defrayed all her extraordinary expenses by a corresponding increase of taxation, peace might be emphatically said to bring 'healing under her wings.' As soon as the period of extraordinary exertion had ceased, the taxes that had been imposed to meet it would also cease. Prices would immediately fall back to their natural level; and industry, relieved from the burdens of the war, would spring forward with redoubled energy. Had we always acted on this system, our taxes could not at this moment have exceeded five or six millions, or little more than the sum it now takes to collect the revenue, while we should at the same time have possessed several hundred millions of additional capital. We should thus have been rendered infinitely more powerful and populous; and would, in consequence, have been better enabled to resist whatever attacks may be made on our own freedom and independence, and to interpose with more decisive effect in defence of the liberties of others.

The objections to the plan for raising the supplies within the year, though sufficiently plausible, seem to us to be of no real weight. It is said, in the *first* place, that the immediate payment of the expenses of a war would, in many cases, be altogether impracticable—and that, on the modern scale of expense, loans, by which the pressure is divided with posterity, are not only convenient but absolutely necessary. Now, the best answer to this plea of *impossibility*, is to show that *the thing has been actually done*,—and before we conclude we undertake to satisfy our readers, that the sums actually raised by taxation

during the enormous and wasteful war outlay from 1793 to 1816, really fell very little short of that vast expenditure; and that we have added upwards of *Six Hundred Millions* to our funded debt, in order to avoid raising little more than one hundred additional millions in the course of those twenty-three years!

The *impossibility*, therefore, of raising the year's expenses within the year, cannot be plausibly maintained—and the objection therefore merely resolves into this, that it would be extremely inconvenient to manufacturers and landholders who are not generally possessed of large sums of ready money. Suppose, for example, that a manufacturer's share of the expense of a war amounts to 1000*l.*, and suppose farther, that he can neither save this sum from his expenditure, nor withdraw it without great loss from his business, the advantage of the funding system consists, we are told, in relieving him from the necessity of making this payment, and in enabling him to carry on his business as before, subject only to a deduction of 50*l.* a year, which he can easily spare from his profits! But the slightest consideration must suffice to satisfy any one, that this is merely a nominal and apparent advantage. How does the practice of funding relieve the manufacturer from the necessity of making an immediate payment of 1000*l.*?—by Government or its agents going into the money-market and *borrowing 1000*l.* on his account, with the interest of which he is charged!* And had this practice been abolished, the manufacturer would have done that directly which he has done by deputy; he would have gone into the market himself, and borrowed the same sum. 'That there are persons disposed to lend to individuals is certain, from the facility with which Government raises its loans. Withdraw this great borrower from the market, and private borrowers will be readily accommodated. By wise regulations and good laws, the greatest facilities might be afforded to individuals in such transactions. In the case of a loan, A advances the money, and B pays the interest, and every thing else remains as before. In the case of war taxes, A would still advance the money, and B pay the interest, only with this difference, he would pay it directly to A; now he pays it to Government, and Government pays it to A.'—(*Art. Funding System, Supp. to Encyc. Britannica, Vol. IV. p. 422.*)

But this is not all. When an individual goes into the market to borrow money on his own account, he will borrow it on much more advantageous terms than the agents employed by Government. The getting of money—*quocunque modo rem*—is the exclusive object of the latter; whereas the object of the former is

not so much to get money, as to get it in the cheapest way possible. It requires, besides, a very expensive establishment—an establishment which costs this country several millions a year—to collect the interest, or the taxes required to pay the interest, of the public debt; every shilling of which would have been saved, had the supplies been raised within the year! In every point of view, therefore, the fallacy of the objection in question is obvious. Nor can there be a doubt, that it is infinitely better that those individuals who are unprovided with ready money, should negotiate loans for themselves, than that they should be negotiated for them by the Treasury.

As any very sudden and great increase of the taxes affecting luxuries would most probably diminish their consumption and render them comparatively unproductive, it would be necessary, in order to raise the supplies within the year, to resort either to taxes on necessaries, or to a tax on income. But then it is objected, that if necessaries are taxed, their prices being proportionally raised, the burden of the tax will fall heaviest on the labouring class, who are least able to bear it: and that in the event of an income tax being resorted to, a disproportionately heavy burden would be thrown on professional people and annuitants. We are not, however, of opinion, that these objections are any better founded than the former. It is a mistake to suppose, that a tax on necessaries imposes any heavier burden on the labourer than on any one else. His wages would be so much increased subsequently to the imposition of the tax, as to preserve him in his former relative situation. That this would be the case is nearly obvious. The produce of the tax would come into the hands of Government; who would, in consequence, have so much the greater means to lay out, as they must always be laid out, either in the purchase of labour or its produce. Whatever, therefore, might in the first instance have been taken from the labourers by the tax, would be restored to them by the rise which the greater demand of Government, or its agents, for labour, could not fail to produce in the rate of wages. Such a tax would really fall on profits; and its injury to the labourer would depend on the check which it gave to the power of accumulation. But as this is an injury which could not be sensibly felt for a very considerable period, it is probable that the war would be terminated, and the tax abolished, previously to its becoming in any degree oppressive to the labourer; whereas, when taxes are imposed to pay the interest of the public debt, they cannot be repealed, and the labourer is exposed, without remedy or the hope of relief, to the whole injury arising from the reduced rate of profit,

and the consequently diminished demand for his industry, which, in the long run, they are certain to occasion.

There is just as little ground for the objection, so much relied upon, that in the event of an income tax being imposed to defray war expenditure, it would fall with disproportionate severity on the professional classes. There is, we admit, a great appearance of truth in the statement of those who affirm, that it is a monstrous hardship and injustice, to make the same deduction from the income of a lawyer or physician, on whose exertions a numerous family may perhaps be dependant, as from the rent of a landlord or the profit of a capitalist. But if it can be shown, that the condition of professional men must be affected by every tax laid exclusively on the incomes of landlords and capitalists, exactly to the same extent as if it had been extended to them, these objections must obviously fall to the ground, and there can be neither hardship nor injustice in making the tax universal. Now, it is not very difficult to demonstrate, that this would really be the case; and that, in point of fact, it is altogether immaterial to professional men, whether, when a tax is laid on income, they pay their full share, or obtain a total exemption.

The revenue or wages of professional men depends partly on the expense necessarily incurred in their education, and partly on the peculiar habits of the society in which they live, and the station they must support. If their wages amounted only to a bare compensation for the expenses of education, it is easy to see they could not be permanently affected by a tax on income; for, as soon as the tax was imposed, their wages would become insufficient for their remuneration; and, while young men would thus be deterred from entering on professional pursuits, those already engaged in them would have a powerful temptation to withdraw; nor would this double operation cease, until it had, by diminishing the supply, raised the wages of those who remained to their proper level,—that is, until it had increased them by the whole amount of the tax. It is clear, therefore, that no lasting or real injury could be done to those professional men whose earnings are proportioned to the necessary expenses of their education, by subjecting them to a tax on income.

It may be supposed, however, that the effect would be different in the case of those whose incomes are not regulated so much by the expense of their education, as by the expense of maintaining themselves in the station in which custom and the habits of society require them to live. But this circumstance does not really make the slightest difference on the result. The situation of professional men must always bear some

certain relation to the situation of those among whom they reside. If you either improve or depress the condition of the landlords and capitalists of a country, it will be found to be utterly impossible to maintain professional men in their previous situation. Their interests are inseparably and indissolubly connected with those of the other classes:—they must rise when they rise, and they must fall when they fall. Suppose, to illustrate this principle, that a tax is laid on the incomes of landlords and capitalists, from which the incomes of professional men are exempted. It is plain, that the immediate effect of such a tax would be to derange the previously subsisting relations between the different classes and orders of society. The condition of professional men, as compared with that of landlords, farmers, manufacturers, and merchants, would be improved. But this improvement would be of very short duration. For, the greater inducements which the exemption from the tax would hold out to young men to enter on professional pursuits, would not fail to attract additional numbers, until, by the increase of competition, their wages had declined, so as to balance the advantage of exemption from the tax, and to place them in the same relative situation as before. If we reverse this hypothesis, and suppose that, instead of professional incomes being exempted from an income tax, it is laid exclusively on them, the result will be precisely similar. The situation of professional men, as compared with that of the other classes, would in this case be changed to the worse. There would, in consequence, be a greater disinclination to engage in professional pursuits; and the usual supply of entrants not being obtained, their numbers would be progressively diminished, until the greater competition for their services had again restored them to their proper relative situation, or to the situation they would have occupied, had the tax been laid equally on all classes.

Still, however, it may be said, that though no injustice is done to professional men by taxing them to the same extent as capitalists, when an income tax forms a *permanent* source of revenue, an injustice would be done them were they taxed to the full extent of the other classes, in the event of its only being imposed during the continuance of a war; because, in such a case, sufficient time would not be afforded to permit the natural principles of adjustment we have described, to operate their full effect. But this objection is as untenable as the former. Wars are calamities to which every people must always be liable; and if it were once known that the supplies required to defray their expense were to be raised within the year, by an equal income

US 2 E 102
Vol. 39 (P)
tax, the chances of being subjected to this tax would most certainly enter into the calculations of all professional men, and the rate of their natural or necessary wages would be regulated accordingly. In every case, therefore, whether an income tax is made one of the ordinary sources of revenue, or is only resorted to on extraordinary emergencies, professional incomes ought to be taxed to the same extent as others. To give abatements in their favour, serves only to introduce an apparent inequality into the tax, and to render its collection more difficult, without doing them any real service. If you give them an abatement, their fees will be diminished; and if you do not give it, they will be raised; so that in either case, they will preserve the same relative situation with respect to the other classes of society.

The only class in whose favour it would be just and equitable to grant an abatement from the full charge, on account of an income tax, consists of those who derive their incomes from *fixed* and *terminable* annuities. It is obvious, that such a tax would press with greater severity on them than on landlords or capitalists, whose incomes are derived from what may be considered as inexhaustible sources; and it would also press with greater severity on them than on professional men, whose incomes would be augmented in consequence of its imposition. And, therefore, it would be necessary to avoid laying any greater burden on the possessors of *terminable* annuities, than on the other classes, or, to preserve them in their previous relative situation, to make abatements in their favour in an *inverse* proportion to the duration of their annuities.

Two very considerable advantages would result from raising the supplies within the year, by means of an income tax, in preference either to taxes on necessities or luxuries. The first consists in the greater equality with which taxes on income affect the different classes of society. Taxes on commodities or expenditure must always fall with disproportionate severity on those who have large families or expensive stations to support, while rich misers and those who have no families may nearly escape them. It has indeed been suggested, that this inequality might be got rid off, by making distinctions in the duties on commodities proportioned to the relative conditions of those who buy them; and by enacting, that those who have so many children should pay a certain duty, and those who have so many more a different duty! But the extreme complexity of such a plan, and the facilities it would give to every species of fraud and evasion, will always prevent its adoption. Supposing however, that it could be adopted, it would be in the highest

degree unjust and inexpedient;—unjust, inasmuch as a reduction of duties in favour of those who have small incomes would really be to tax the wealthier classes, not for the sake of the State, but for the benefit of their less opulent brethren; and inexpedient, inasmuch as a reduction of duties in favour of those who have large families, would act as a stimulus to marriage, which, if it ought not to be discouraged, certainly stands in no need of encouragement. So long, therefore, as taxes affect only expenditure, those who are obliged to spend, must unavoidably pay more than their just proportion of the public revenue. But a fairly levied tax on income would obviate this defect; and would make all classes contribute equally, in proportion to their means, to the expenses of the war.

The second advantage that would result from raising the supplies by means of an income tax, consists in the little derangement it would occasion in the distribution of capital, and in the price of commodities. When a tax is laid on a particular class of commodities, the producers, in order to raise the price proportionally to the tax, diminish the supply in the market, by transferring a portion of the capital employed in the production of the taxed commodities to some other business. But an equal income tax would operate as *an equal tax on profits*; and when all profits are equally taxed, no advantage would be gained by transferring capital from one business to another, and the producers would have no means whatever of raising prices. Under the operation of such a tax, every individual would continue, just as he would have done had he not been taxed at all, to employ himself in those businesses which are naturally most advantageous. Capital and industry would not be forced into artificial channels. The pay of troops and of public functionaries would not be raised, because of a rise of prices occasioned by taxation; at the end of the war, every thing would be found in its proper position; there would be no revulsion; and we should be immediately enabled to avail ourselves to the utmost, of all our natural and acquired resources.

M. Gentz lays much stress on the argument, that it is always in the power of individuals to defray the interest of loans by increased saving and exertion, while, if they were called upon to pay their entire share of the loan, so great an encroachment might be made on their means of production as to deprive them of the power even of saving the interest. But this is supposing, that an individual, who is engaged in business, and who has no spare capital, could not borrow a sum to pay his share of the tax, which we have shown would be always completely in his power. Besides, it is a radical error to suppose that the

superiority of the plan for raising the supplies within the year depends on its causing the whole expense to be saved. Every contest must occasion the destruction of capital. But the question is, Whether will this destruction be sooner compensated on this system or on that of loans? Now, it is obvious, that if the entire expenses of a war were distributed among individuals, and made a debt directly affecting them, the wish to relieve themselves of the principal of this debt would be a much more powerful motive to increased exertion and economy, than the wish to relieve themselves of the interest. The real effect of increased public expenditure in diminishing the wealth of individuals, would then be rendered palpable and obvious; the deception caused by loans would be avoided; and every one would have a plain and distinct motive to exert himself to preserve his fortune unimpaired, and to relieve himself of *his share* of the public expense; whereas, by resorting to the Funding System, you really mortgage the property and encumber the industry of all classes; at the same time that each individual, looking only to the debt *en masse*, and ignorant of the extent of the burden affecting himself, never once dreams of its payment, or of saving a capital for the extinction of his own share.

Neither is it by any means true, as is contended by M. Gentz, that it is always in the power of individuals to defray the interest of loans by increased saving and exertion. In the infancy of the Funding System this is generally the case. But, after it has attained to maturity,—after it has entailed a vast load of debt on the country, and deeply encroached on the comforts and means of the people, it becomes impossible to defray the interest of loans by additional exertion and frugality. No principle being then left to balance the destruction of capital and consequent loss of income, the process of degradation is carried on with double force. When in its first stage, and when least injurious, the Funding System is one of deceit, waste, and prodigality; but when it has been carried to its full extent, it not only destroys a large proportion of the means of future production, without leaving any means of replacing them, but, by carrying taxation in time of peace to a most oppressive height, it overloads and paralyzes all the springs of exertion, depresses the rate of profit and creates an overpowering temptation to transfer capital to other countries, and thus becomes the most efficient cause of national poverty, disgrace, and revolution.

It is almost unnecessary to notice the singular argument advanced by M. Necker in favour of the Funding System. He contends, that if it is adopted by one nation, it must, from a regard to *self-defence*, be adopted by others. But if the effect of

the Funding System be, as it unquestionably is, to occasion a very great diminution of national power and resources, it is obvious, that its abandonment by a particular state would be one of the most effectual methods by which she could increase her relative force. And hence it is, that a regard to self-defence would suggest the very reverse of the policy which M. Necker has recommended. (*Administration des Finances*, II. p. 381.)

The mob of declaimers in favour of the Funding System tell us, that the injurious effects anticipated from it by Hume and Smith, have not been realized; that the national prosperity has increased, notwithstanding the debt has been augmented in a *tenfold* proportion since they wrote; and that they are, in consequence, entitled to presume, that the same fate will attend all such sinister predictions in all time to come! But the fact of the nation having made prodigious advances since 1752, when Mr Hume's Essay on Public Credit was published, is really no proof whatever, that the Funding System is not to the full as mischievous as he represented it. Neither Hume nor Smith made sufficient allowance for the effect of mechanical discoveries, and of improved methods of production, in repairing the loss of capital occasioned by funding. But this does not render their general estimate of the effects of that system less sound and unimpeachable. The waste and dilapidation occasioned by the practice of funding have been counteracted by causes which have no connexion with it, and which would have equally existed had it never been heard of,—by the stupendous inventions and discoveries of Watt, Arkwright, Crompton, Wedgwood and other benefactors of their species. Still, however, it is undeniably certain, and it is on this that the whole question hinges, that, had it not been for this waste and dilapidation, these inventions would have proved incomparably more beneficial. Had the supplies been raised within the year, a more powerful spirit of economy would have been generated in the nation; the public capital would, in consequence, have been augmented; our taxes would not have exceeded a *tenth* part of their present amount; the advantage of increased facilities of production would not have been neutralized by the imposition of equivalent or higher duties; it would not have been, as it now is, not a little difficult for the most industrious labourers to support themselves without having recourse to parish assistance; the rate of profit would not have been sunk below the rate of profit in other countries; and there would have been no cause to occasion that efflux of capital which is now taking

The truth is, that if we compare the state of this country under the Funding System, with what would have been its

state had the supplies been raised within the year, we shall find that Hume and Smith, instead of exaggerating, have really underrated its destructive influence and operation.

The history of most modern countries attests the truth of the principles we have been endeavouring to establish. The Funding System has been almost universally adopted, and it has uniformly enfeebled every state which has had recourse to it. It was carried to its greatest extent in Holland; and it is to it, or rather to the excessive taxation in time of peace which it occasioned, that the low rate of profit in that republic, and the decline of her fisheries, manufactures and commerce, is to be ascribed. ‘*Nous avons remarqué,*’ says the well-informed author of the *Richesse de la Hollande*, ‘*que l’accroissement successif des impôts, et la nécessité de faire des emprunts ont couru plus que toute autre cause à faire décroître le commerce de la Hollande. C’est là une suite inévitable, surtout des emprunts, parce qu’une paix ne mortifie pas les dettes de l’état. Tous les avantages d’une guerre heureuse ne bonifient pas les désavantages que l’état en souffre. Les peuples sont moins heureux et l’état s’est affaibli. C’est toujours là le résultat inévitable de l’usage des emprunts. C’est là peut-être l’un des fléaux de la guerre moderne, qui repand le plus de calamités, en ce qu’il affecte tous les peuples dans un détail infini et plusieurs générations. La politique qui de nos jours a trouvé l’art de soutenir la guerre par l’usage du crédit, ne pouvoit produire un art plus funeste à l’humanité.*’ (Tome II. p. 201. Amst. 1778.)

We subjoin a sketch of the progress of the interest of the public debt of the *province* of Holland.

Florins.

In 1562, previous to the commencement of the revolutionary disturbances, the interest of the public debt of Holland amounted to	78,100
In 1579, the epoch of the union of Utrecht, it amounted to	117,000
In 1671, previously to the invasion of the French under Louis XIV., it amounted to	5,509,519
In 1678, at the peace of Nimeguen, it amounted to	7,107,128
In 1697, at the peace of Ryswick, it amounted to	8,545,309
In 1713, at the peace of Utrecht, it amounted to	13,475,029
In 1750, at the peace of Aix-la-Chapelle, it amounted to	14,910,874

In 1789, at the commencement of the French Revolution, it amounted to - - - 14,948,822
 In 1791, it amounted to - - - 18,276,015 *

This progression would have been a good deal more rapid, had it not been for several forced reductions of the interest, or *partial bankruptcies*.—The first of these took place in 1655, during the administration of the famous John de Witt, when the interest of the public debt was reduced from 5 to 4 per cent. In 1795, upwards of *five* millions were deducted from the interest payable by the *province* of Holland; but, notwithstanding this reduction, it became necessary, for her relief, to amalgamate her debts with those of the other provinces in 1799, when the charge on account of their aggregate interest amounted to 25,338,648 florins. In 1804, this charge had increased to 31,714,428 florins; and, in despite of every effort to meet the growing deficit in the revenue, by the imposition of taxes both on necessities and capital, a fresh bankruptcy has since taken place! Such have been the effects of the funding system in Holland, and such too will be its effects in every country which, in despite of this awful warning, is infatuated enough to resort to it as an ordinary means of defraying war expenditure!

It is now no longer a question, that the disordered state of the finances, caused by the overgrown amount of the public debt, was the immediate cause of the French Revolution. It deserves, however, to be observed, that the celebrated M. Colbert was quite aware of the danger of the practice of funding, and made every effort in his power to prevent its introduction. We extract the following account, which is equally curious and instructive, of the way in which Colbert's efforts were defeated, from an exceedingly valuable *Memoire* on the State of the French Finances, presented to the Duc d'Orleans, Regent of France, in 1717.

' M. de Louvois, ' says the author of the *Memoire*, ' comme tout le monde le scait, n'étoit pas fâché de voir la guerre. Au commencement de celle qui fut entreprise en 1672, il fallut des secours extraordinaires.

' M. Colbert fit quelques traités des nouvelles impositions et des augmentations des droits; ce qui excita des plaintes dans le public, et des representations même de la part des magistrats.

' M. de Louvois, instruit de ces difficultés, alla trouver un des premiers magistrats, le premier President du Parlement de Paris, homme d'une merite distingué et d'une probité reconnue. Il lui dit qu'il rendroit un service essentiel au Roi, en lui montrant qu'au lieu de ses traités (excises) extraordinaires que

‘ le parlement se faisoit tant de peine d’enregistrer, et qui étoient
 ‘ si insupportables au peuple, il étoit bien plus simple et plus aisé
 ‘ de créer des rentes ; qu’un million de rentes créées produiroit
 ‘ tout d’un coup vingt millions, et que ce seroit un petit objet par
 ‘ rapport aux revenus considérables dont jouissoit sa Majesté. Ce
 ‘ magistrat suivit de bonne foi l’avis qui lui étoit donné. Le Roi
 ‘ ravi de cet expédient, qui lui venoit d’un homme si approuvé,
 ‘ dit à M. Colbert qu’il n’y avoit qu’à créer des rentes. M. Col-
 ‘ bert, qui en prévoyoit les suites et les inconveniens, voulut a-
 ‘ vant que de rendre l’Edit, se donner la satisfaction de parler au
 ‘ premier Président. Il lui fit sentir les conséquences du conseil
 ‘ qu’il avoit donné à bonne intention, et lui dit qu’il répondroit
 ‘ devant Dieu du préjudice qu’il causoit à l’état, et du mal qu’il
 ‘ faisoit au peuple.’—(*Forbonnais Recherches sur les Finances de
 la France, tome VI. p. 117.*)

The family of Bourbon and the French nation have paid dearly for their folly, in sacrificing the lasting and permanent advantages that would have resulted from following the system of Colbert, for the sake of the delusive and momentary relief afforded by the plan suggested by Louvois. Had the former been adopted, France would have avoided the disgraceful and ruinously destructive bankruptcies of 1715 and 1769 ; and would most probably have been preserved from the Revolution of 1789.

Unfortunately, however, it is unnecessary to refer either to the history of Holland or of France, for a demonstration of the ruinous effects of the funding system. It has been hardly less injurious here. With the exception of the sum of 664,263*l.*, being the compensation given to the merchants and others who had suffered by the robbery of the Exchequer by Charles II. in 1672, the national debt of Great Britain has been wholly contracted since the era of the Revolution. At the commencement of Queen Anne’s reign, in 1702, the principal of the debt amounted to only 16,400,000*l.*, and the interest to 1,310,000*l.* At the accession of George I., in 1713, the principal amounted to 52,000,000*l.*, and the interest to 3,351,000*l.* ; and at the accession of George II., in 1727, the principal still amounted to 52,000,000*l.* ; but, in consequence of measures adopted in 1716, the charge on account of interest was reduced to 2,217,000*l.* Here the system of borrowing ought to have stopped ; but thus far it was certainly justifiable. The Revolution involved us in a bloody and expensive contest with Louis XIV., who espoused the cause of the exiled family of Stuart, and exerted himself to reduce the people of Britain to the same state of abject slavery to their *legitimate* monarchs to which his less powerful, but equally bigotted and unprincipled successors are now attempt-

ing to reduce the Spaniards ! But the danger from without, though great and imminent, was inferior to the danger from within. A numerous and powerful faction were favourable to the views of the Pretender ; and the imposition of such an additional load of taxes, as would have been required to defray the cost of the war it was necessary to wage for the independence and liberties of the country, would have afforded the Jacobites the means of traducing the new government, of inflaming popular discontents, and spreading disaffection, and most probably of overturning the revolutionary establishment. The difficulties of their situation—*res dura et regni novitas*—justify the revolutionary leaders in resorting to the system of loans. In point of fact, they had no other resource. The contraction of debt was then really not a matter of *choice*, but of *necessity*. The error consisted in continuing the system of loans after the new government had been firmly established, and after that necessity, which affords a complete justification of those who first introduced the plan of borrowing, had entirely ceased. But although the ruinous nature of the Funding System was very soon exposed, both by members in the House of Commons, and by writers of considerable ability out of doors, the facilities which it presented to each succeeding administration, of meeting any extraordinary expense, without endangering their popularity by the imposition of equivalent taxes, secured its ascendancy. The ministers of George II. and George III. were all bred in the school of Louvois. Sound policy, and a proper regard for the public welfare, imperiously required of them to act with firmness and vigour ; and to impose, in despite of the clamours of the ignorant, whatever additional taxes might have been necessary to meet any extraordinary expense. But, instead of acting in this manly, open, and energetic manner, they resorted, either from a wish to conciliate the ephemeral applauses of the mob, or from some less worthy motive, to a system of deceit and delusion ; which, while it enabled them to indulge in a course of wanton and prodigal expenditure, has entailed a greater permanent annual burden on the country, in time of peace, than would have been required to carry on the most expensive war.

We have already observed, that the principal of the public debt amounted, in 1727, at the accession of George II. to fifty-two millions, and the interest to 2,217,000*l*. The wars of 1739 and 1756 carried the principal of the debt, at the peace of Paris in 1763, three years posterior to the accession of his late Majesty, to one hundred and thirty-eight millions, and the interest to 4,352,051*l*. Since then, the debt has increased with a rapidity unparalleled in any other age or country. The attempt to

enslave the American colonists, by making them pay taxes imposed without their consent, added above *one hundred and twenty millions* to the public debt—and the crusade, in favour of the Bourbons of France, has added to it upwards of *SIX HUNDRED MILLIONS* more! The following statement exhibits the progress of the public debt since the peace of Paris in 1763:—

	Principal.	Interest.
Debt at peace of Paris in 1763, - -	L.138,865,430	L.4,852,051
Paid during peace; - - -	10,281,795	380,480
Debt at the commencement of the American war in 1775, - -	128,583,635	4,471,571
Debt contracted during the American war, - - -	121,267,993	4,980,201
Debt at the close of the American war, - - -	249,851,628	9,451,772
Paid during peace from 1784 to 1793, - -	10,501,380	243,277
Debt at the commencement of the Antijacobin war of 1793, - -	239,350,148	9,208,495
Debt contracted during the Antijacobin or Bourbon restoration war, -	608,932,329	24,645,971
Total amount of the <i>unredeemed, funded, and unfunded</i> debt, on the 5th of January 1817, - - -	L.848,282,477	L.33,854,466

The following is an account of the amount of the *unredeemed, funded, and unfunded* debt, of the total charge for both on account of interest, expenses of management, &c. in each year, from 1816 to 1823:—

Years ending 5th January.	Total unredeemed Funded Debt.	Total Unfunded Debt.	Total Charge on account of both.
1818	L.776,742,403	L.66,772,364	L.31,266,601
1819	791,867,313	53,095,008	31,351,751
1820	794,986,481	48,408,323	30,792,025
1821	801,565,310	40,860,481	31,252,612
1822	795,312,767	41,477,789	31,966,079
1823	796,530,145	41,485,770	30,921,494*

* This is the total charge as given in the Finance Accounts for 1822 (p. 19), for the debt during the year ending 5th January 1823. But the charge for the debt as it stood on the 5th January 1823, amounted to upwards of 32 millions; and this because new debt, bearing an interest of 3,251,687 $\frac{1}{2}$ l. was created in 1822, while the

But the main object of our investigation is not so much to show the rapid and appalling increase of the public debt, as to show the absolute waste of the national resources, occasioned by the Funding System. And that, in exhibiting its practical operation, we may not be accused of laying any stress on collateral or doubtful topics, we shall preface our inquiries into the operation of the Funding System, during the late war, by a very large admission indeed:—We shall suppose, and even the Laureate would not require us to do more, that the late war was not only what its advocates called it, ‘just and necessary,’ but that it was also conducted in the most frugal and parsimonious manner: We shall suppose that no subsidies were uselessly granted to foreign powers; that there was no jobbing either in the commissariat or any other department; no wanton expenditure in barracks and other buildings; no unnecessary changes in the dress and equipment of the troops, but that every thing was conducted in as laudable a spirit of economy as it could have been, had the proceedings of ministers and their agents been controlled by a committee of Dutch burgomasters! And, after allowing all this, we shall show, that, by raising the supplies within the year, the country could have defrayed the *same amount of expenditure* for ONE HUNDRED AND FORTY-SIX MILLIONS less than it actually cost under the Funding System; while we should also have accumulated about ONE HUNDRED MILLIONS of capital, in addition to the accumulations that have really been made, by the more powerful spirit of industry and economy that would have been generated by directly burdening each individual with his full share of the expenses of the war.

This result is deduced from the statements in the following Tables, which we have drawn up either from the official accounts published by order of the House of Commons, or from those in the Journal Office, and on the accuracy of which our readers may place every reliance.—[See TABLE, No. I.]

This Table is most important. The *first* column contains a statement of the total charge on account of the *unredeemed* funded and unfunded debt, as it stood on the 5th January 1793, and as it would have stood on the 5th January each succeeding year to 1816 inclusive, had no addition been made to it. We have included 1816; for though the war ended in 1815, the financial operations occasioned by it were not concluded till 1816. The reductions are occasioned by the falling in of annuities, &c.: The *second*

debt paid off in that year only bore an interest of 1,902,240*l.* 17*s.*; and hence it is obvious, that the charge for the debt this year will be considerably greater than it has been in any year since 1817!—(See Finance Accounts for 1822, p. 157.)

No. I. TABLE, showing the Total Charge on account of the Unredeemed Public Debt due on the 5th January 1795, in that and every subsequent Year to 1816, inclusive; the Total Charges of the State exclusive of the Debt; the Total Charges of the State inclusive of the Debt contracted previously to 1793; the Amount of the Net Revenue received by the Treasury in each Year from 1793 to 1816, both inclusive; and the Excess of Expenditure over Revenue, and of Income over Expenditure.

Years.	1 Charge on Account of the unredeemed, funded, and unfunded debt, as it stood 5th Jan. 1793, and subsequently.	2 Total Charges of the State on account of war expenditure, internal government, colonies, &c.	3 Totals of No 1 and 2, or Charge, as it would have been, had the Supplies been raised within the Year.	4 Total net Revenue received by the Treasury.	5 Excess of Expenditure over Revenue.	6 Excess of Revenue over Expenditure.
1793	L. 9,208,495 16 1	L. 12,038,424 16 4	L. 21,266,950 12 5	L. 17,869,256 16 4	L. 3,597,683 16 1	—
4	9,208,495 16 1	16,431,141 15 9	25,639,636 11 3	18,037,696 5 4	7,601,940 5 11	—
5	9,208,495 16 1	27,229,772 14 6	36,438,268 10 7	18,585,022 17 3	17,852,245 13 4	—
6	9,208,495 16 1	26,186,027 4 1½	35,390,253 0 2	19,654,779 5 7	15,739,743 14 7	—
7	9,169,915 10 7	33,314,986 0 4	42,484,901 10 11	23,352,828 15 0½	18,552,072 15 10½	—
8	9,169,915 10 7	31,147,810 16 11	40,317,726 7 6	30,727,737 15 4½	9,589,988 12 1½	—
9	8,805,914 8 4	37,562,715 10 9½	46,368,659 19 1½	35,787,275 2 0	10,651,554 16 2	—
1800	8,635,234 10 0	59,774,539 15 4½	48,402,794 5 4½	31,705,045 3 7	13,704,759 1 10	—
1	8,578,034 10 7	43,306,424 6 0	51,884,458 16 7	36,320,149 18 10	15,564,508 17 9	—
2	8,542,760 15 0	52,774,304 18 0	41,517,965 11 0½	39,001,900 17 8	5,515,164 12 4	—
3	8,482,846 6 5½	29,716,197 7 10	38,199,043 14 0½	39,495,086 8 8	1,817,202 15 3½	—
4	8,463,186 5 4	40,756,348 8 4	49,190,354 13 8	47,382,331 18 4½	5,003,168 19 2	—
5	8,432,326 16 6	46,718,701 14 0	55,141,038 10 6	52,157,839 11 4	—	2,903,267 6 1
6	8,531,789 9 2½	44,568,514 2 4½	52,990,303 11 11	60,445,007 16 0	—	5,945,485 17 1½
7	8,316,458 0 2½	46,183,063 18 8½	54,499,491 18 10½	65,523,570 18 0	—	4,272,684 4 2½
8	7,880,304 13 1½	52,089,735 0 7½	59,970,039 13 9	64,202,723 17 1½	—	4,463,030 17 6½
9	7,811,425 11 5½	53,865,861 0 9½	61,677,586 12 0½	66,140,317 9 7½	—	4,526,346 11 7½
1810	7,786,287 16 5½	66,017,719 9 10½	66,017,719 9 10½	70,274,096 1 1	—	—
11	7,763,998 6 7½	70,252,477 6 3	70,252,477 6 3	69,061,896 14 1	2,190,580 12 2	—
12	7,735,463 18 0	68,488,478 19 7½	76,516,068 2 10	67,545,437 19 0	8,970,730 3 9½	—
13	7,714,447 15 11½	68,780,604 4 10½	76,516,068 2 10	75,457,610 7 0	12,295,175 4 10	—
14	7,688,078 7 0½	79,964,537 15 10½	87,682,785 11 9½	76,544,567 16 0	18,194,842 11 8	—
15	7,669,015 19 11½	87,051,232 0 6½	94,739,410 4 7½	76,544,567 16 0	—	4,000,847 8 5
16	7,624,753 14 7	69,623,049 19 2	77,292,063 19 1½	81,292,911 7 6	—	21,107,375 0 6½
		39,426,943 1 1½	47,061,698 15 8½	68,169,073 16 2½	—	—
	301,406,161 2 4	1079,244,746 10 10	1280,650,907 13 2	1166,564,034 19 6	162,531,552 13 10	48,945,080 0 1½
					114,086,272 13 6½	
						48,945,080 0 1½
						48,945,080 0 1½

second column contains a statement of the total amount of all the various expenses of the state on account of the war, internal government, colonies, and every other article of expense, exclusive of the debt from 1793 to 1816, both inclusive: The *third* column consists of the first and second added together, and, consequently, shows the sums which it would have been necessary to have raised within the year, to have defrayed the entire expenses of the war, and to have avoided the contraction of new debt since 1793: The *fourth* column shows the amount of the nett revenue actually received by Government: and the *fifth* and *sixth* columns show when there was an excess of expenditure over income, and an excess of income over expenditure.

Now, it appears, from this Table, that the total expenditure on account of the internal government of the country, the war, the colonies, and the debt contracted previously to 1793, from 1793 to 1816, WAS ONLY 114,086,272*l.* GREATER THAN THE REVENUE ACTUALLY RECEIVED FROM TAXATION DURING THE SAME PERIOD! It farther appears, that this deficit entirely took place in the first ten years of the war; and that *the revenue, subsequently to 1802, would have been more than sufficient to have defrayed the whole expenditure, had it not been for the charges on account of the loans contracted between 1792 and 1803!*

These statements will certainly appear a good deal extraordinary to the admirers of the Funding System; but we defy all the clerks of the Treasury to show that they involve any material error. It is impossible to controvert the fact, that, had the comparatively small additional sum of 114,086,272*l.* been raised by taxes within the first ten years of the war, the charge on account of the unredeemed debt would not, at this moment, have amounted to eight millions, whereas it actually exceeds thirty millions; and the whole taxation of the country would not have amounted to upwards of twenty or twenty-four millions, instead of reaching to nearly *three* times that amount, or to *sixty* millions!

We should, however, convey a false impression to our readers, if we made them suppose, that all the immense sums that were borrowed during the war, exclusive of 114,086,272*l.*, were absolutely and entirely lost. Wasteful and destructive as the Funding System unquestionably is, it is not quite so bad as this. By not taking the 114,086,272*l.* from the people, it was left to them to be used as a capital to produce additional wealth; and as we suppose that they could have lived without this capital, had it been taken from them by taxes, we shall suppose that *they accumulated it at compound interest during the whole period*

No. II. Progressive increase, at 5 per cent. compound interest, of the Capitals left in the possession of the Public by the deficiency of Taxation to meet Expenditure, and of those taken from the Public by the excess of Taxation over Expenditure, in the period from 1793 to 1816, both inclusive.

Years.	Excess of Expenditure over Revenue accumulated at 5 p. cent. comp. int.	Years.	Excess of Expenditure over Revenue accumulated at 5 p. cent. comp. int.	Years.	Excess of Expenditure over Revenue accumulated at 5 p. cent. comp. int.	Years.	Excess of Revenue over Expenditure accumulated at 5 p. cent. comp. int.	Years.	Excess of Revenue over Expenditure accumulated at 5 p. cent. comp. int.
1793.	329,768.8 Int. 169,884.2	1802.	135,032,047.7 Int. 6,751,602.4	1810.	210,138,256.6 Int. 10,506,911.8	1803.	1,296,042.7 Int. 64,802.1	1810.	20,688,804.5 Int. 1,034,440.2
1794.	7,601,940.5	1803.	143,098,814.7 Int. 7,254,940.7	1811.	220,643,148.4 Int. 11,032,257.4	1804.	1,360,844.8 Int. 68,042.2	1811.	25,979,591.3 Int. 1,298,979.6
1795.	11,169,508.3 Int. 558,475.4	1804.	152,353,755.4 Int. 7,617,687.8	1812.	233,867,986.4 Int. 11,693,399.3	1805.	1,428,887.0 Int. 71,444.3	1812.	27,278,570.9 Int. 1,363,928.5
1796.	15,739,743.7	1805.	161,788,646.0 Int. 8,089,432.3	1813.	254,532,115.9 Int. 12,726,603.8	1806.	1,500,331.5 Int. 75,016.7	1813.	28,042,499.4 Int. 1,432,134.9
1797.	18,532,072.8	1806.	172,881,247.3 Int. 8,644,062.4	1814.	279,485,896.9 Int. 13,974,194.8	1807.	2,903,267.3 Int. 5,945,485.9	1814.	30,074,634.3 Int. 1,503,731.2
1798.	67,671,447.6 Int. 3,383,572.4	1807.	181,525,303.7 Int. 9,076,365.5	1815.	311,652,534.3 Int. 15,582,646.7	1808.	10,648,031.9 Int. 553,401.6	1815.	31,578,355.3 Int. 1,578,917.8
1799.	80,645,008.6 Int. 4,032,250.4	1808.	190,601,575.2 Int. 9,530,078.7	1816.	327,235,581.0 Int. 16,561,779.0	1809.	15,455,117.7 Int. 772,653.9	1816.	37,158,120.7 Int. 1,837,905.0
1800.	93,308,613.8 Int. 4,765,430.7	1809.	200,131,653.9 Int. 10,006,382.7		543,597,360		4,463,030.9		21,107,375.0
1801.	112,778,803.6 Int. 5,688,940.2								60,123,402

Amount of capitals and of their accumulations at 5 per cent. comp. int. left in the possession of the people by the adoption of the funding system
 L.343,597,360
 60,123,402 }
 L.283,473,958

Do. of capitals taken from the people more than would have been required, had the supplies been raised within the year

No. III. Account of Loans contracted in each year from 1793 to 1816 both inclusive; of the total charge on account of these Loans; of the portions of them paid to the Commissioners of the Sinking Fund; and of the amount of the Dividends on the Stock purchased by said Commissioners.—(From the Parliamentary paper, No. 145. Sess. 1822.)

Years ending 1st Feb.	Amount of Loans contracted in each Year.			Total Annual Charge of Dividends and Annuities on such loans.			Account of the portions of the Loans paid to the Commissioners of Sinking Fund.			Amount of the Dividends on the Stock purchased by the Commissioners.		
	L.	s.	d.	L.	s.	d.	L.	s.	d.	L.	s.	d.
1794.	4,500,000	0	0	187,500	0	0	1,630,615	1	4	65,232	3	0
1795.	12,907,451	2	2	599,117	18	11½	1,872,200	4	2	84,148	7	0
1796.	42,090,646	3	2	2,132,568	17	10½	2,143,595	16	1	97,573	13	0
1797.	42,756,196	2	0	2,274,528	4	8½	2,639,724	9	5	131,720	2	0
1798.	14,620,000	0	0	955,579	0	0	3,361,752	11	3	201,484	11	9½
1799.	18,000,000	0	0	1,105,602	10	0	3,984,252	13	2	235,745	5	4½
1800.	12,500,000	0	0	656,250	0	0	4,288,208	15	0	216,640	9	9½
1801.	18,500,000	0	0	871,350	0	0	4,620,479	1	7	219,450	1	2½
1802.	34,410,450	0	0	1,775,530	10	4½	5,117,723	2	2	249,593	12	4½
1803.	23,000,000	0	0	910,541	5	0	5,685,542	6	6	246,256	12	7
1804.	10,000,000	0	0	512,083	6	8	6,018,179	8	9	315,817	5	9½
1805.	11,526,699	6	3	654,631	12	3½	6,521,594	7	2	344,710	15	2½
1806.	20,000,000	0	0	1,032,000	0	0	7,181,482	3	3	367,021	18	4½
1807.	18,000,000	0	0	896,400	0	0	7,829,588	19	3	453,923	2	0
1808.	12,200,000	0	0	577,060	0	0	8,908,673	17	3	425,142	4	2½
1809.	12,000,000	0	0	587,743	13	6	9,555,855	9	1	435,757	14	4½
1810.	19,532,100	0	0	947,312	4	3	10,170,104	15	9	453,923	2	7
1811.	16,311,000	0	0	765,955	7	6	10,813,016	15	9	481,442	16	4½
1812.	24,000,000	0	0	1,191,735	11	6½	11,543,881	3	7	544,417	7	0
1813.	27,871,325	0	0	1,486,271	11	0	12,439,631	19	5	633,253	5	2½
1814.	58,763,100	0	0	3,230,599	18	4½	14,181,006	5	4	723,626	0	2½
1815.	18,500,000	0	0	851,832	18	0	12,748,231	12	3	574,490	10	4½
1816.	45,135,589	3	6	2,577,820	2	9½	11,902,051	2	8	608,402	18	9½
1817.	3,000,000	0	0	90,000	0	0	11,491,670	2	6	555,536	13	7
Total	520,124,556	17	1	26,849,814	12	9½	176,648,860	2	8	8,595,597	5	2½
Sums raised by funding on account of Ireland in Great Britain during the above mentioned years, the interest and other charges on account of which were all paid out of the revenue of this country	64,750,000	0	0	3,324,549	11	8	11,875,489	16	10	572,635	7	5½
	584,874,556	17	1	30,174,364	4	5½	188,522,349	19	6	9,168,232	12	8
	188,522,349	19	6	9,168,232	12	8						
	396,352,206	17	7	21,006,131	11	9½	Amount of loans, and of the interest payable on them, raised to defray war expenditure in the period from 1793 to 1816, both inclusive.					

riod of the war, and shall compare it, when so accumulated, with the debt contracted during the same period.* This is setting the question in the most favourable point of view in which it can possibly be set for the Funding System. The calculations are made in the following table. The balances of excess of expenditure, and excess of income, as given in the first Table, are here accumulated at compound interest at five per cent; and, by deducting the one from the other, we shall obtain the *real* sum to be compared with the amount of the loans made during the war, to show the actual loss or profit of the Funding System.—[See TABLE, No. II.]

The difference between these two sums, or 283,473,958*l.*, is the whole amount of the capitals which the adoption of the Funding System left in the pockets of the public, over what would have been taken out of them, had the supplies been raised within the year, and also of their accumulations at five per cent. *compound* interest. And hence, if the loans contracted during the war amount to *more* than 283,473,958*l.*, the *excess*, whatever it may be, is just so much capital lost or destroyed by the Funding system; while, on the other hand, if the loans contracted during the war amount to *less* than 283,473,958*l.*, the *deficit* will be so much saved or gained by it. Let us, therefore, proceed to ascertain the actual amount of the loans.—[See TABLE, No. III.]

Now, it is seen from this Table, which is nothing more than an abstract of the Parliamentary paper, No. 145, Sess. 1822, that 581,874,556*l.* 17*s.* 1*d.*, were borrowed in the period from 1793 to 1817, at an annual charge to the public of 30,174,364*l.* 4*s.* 5½*d.*; but, of this sum, 188,522,349*l.* 19*s.* 6*d.* were transferred to the Commissioners of the Sinking Fund, with which they purchased stock yielding 9,168,232*l.* 12*s.* 8*d.* a year. These sums being deducted from the former, we get 396,352,206*l.* 17*s.* 7*d.* as the amount of the sums really borrowed to defray the expenses of the late war, at an annual charge of 21,006,131*l.* 11*s.* 9½*d.*, exclusive of an increased issue of Exchequer bills to

* The Resolutions submitted to the House of Commons by Mr Hume, on the 25th July 1822, do not take this principle into view, and, therefore, represent the loss occasioned by the Funding System as considerably greater than it really was. But with this, and one other exception, which is of no great moment (33d Resolution), Mr H.'s Resolutions are accurate and extremely valuable. They contain a great mass of well-authenticated and precise information respecting the shameful prodigality and ignorance displayed in the management of our financial affairs during the late war, and since.

the amount of 33,289,000*l.*, * making together a principal sum of 429,641,507*l.* 17*s.* 7*d.*

But we have already seen, that the entire amount of the sums which the adoption of the funding system left in the pockets of the public, over what would have been taken out of them had the supplies been raised within the year, and their accumulations at 5 per cent., compound interest, only amounted to 283,173,958*l.*; and this sum being deducted from the sum of 429,641,507*l.*, raised by funding and issuing Exchequer bills, leaves a balance of ONE HUNDRED AND FORTY-SIX MILLIONS, ONE HUNDRED AND SIXTY-SIX THOUSAND, FIVE HUNDRED AND FORTY-NINE POUNDS STERLING, which is the net amount of the immediate and direct dead loss the public has sustained by funding during the late war.

We should mistake, however, if we supposed that this sum of 146 millions, vast as it most certainly is, measured the whole of the loss occasioned to the country by the loans contracted during the war. We have already shown, that it is impossible to adopt the plan for raising the supplies within the year, without giving additional force and energy to the spirit of industry and parsimony. We must, therefore, in estimating the effects of the Funding System, take into view its influence in checking the operation of this principle of accumulation. Here we have only conjecture to guide us; but we do not think that we shall in any respect exaggerate if we suppose, that, exclusively of the direct loss occasioned by it during the war, the Funding System has indirectly, but effectually, operated to prevent the accumulation of 100 millions of capital, which would have been accumulated had the plan for raising the supplies within the year been adopted. This sum may be a trifle too much or too little either on the one side or the other, but we do not believe that it is very wide of the mark. At all events, however, it is certain, that, had the supplies for the late war been raised within the year, the country would have avoided the total loss and destruction of ONE HUNDRED AND FORTY-SIX MILLIONS of capital, capable of producing a future interminable annual revenue of 7,300,000*l.*; and as each person would have been desirous to free himself from whatever encumbrances he might have contracted in defraying his share of the public expenditure, a principle of increased exertion and economy would have been in

* Amount of Exchequer bills on the 5th of January

1817	-	-	-	-	L. 44,650,300
Do. do. 5th January 1793	-	-	-	-	11,361,000

Excess

L. 33,289,300

operation from the commencement of the war, which would either now, or at no distant period, have repaired all its losses; while our taxation would not, at this moment, have exceeded 20 or 24 millions!

This inquiry into the practical and real effects of the Funding System during the late war, has confirmed all our general conclusions, and placed them beyond the reach of cavil and dispute. We said, that it was a wasteful and a destructive system; and the loss of 146 millions, and the check given to the operation of the principle of increased exertion and economy, shows that it is so to a degree that was hardly conceivable.

We have not entered into this investigation for the purpose of fruitlessly bewailing past errors, or of showing what the country might have gained by the adoption of a different system. Our object has been, to open the eyes of the public to the real nature of the Funding System; to strip off the disguises with which its mischievous qualities have been veiled; and to demonstrate the advantage that would arise from raising the supplies within the year, in the event of our being again engaged in hostilities. If we are ordinarily wise, we will for ever abjure the delusive and prodigal resource of loans. The only really sound system of policy is, 'to meet our difficulties as they arise, and keep our estates free from permanent encumbrances, of the weight of which we are never truly sensible, till we are involved in them past remedy.' (*Art. Funding System, Suppl. to Encyclop. Britannica.*)

But to render our views of the Funding System complete, and to facilitate the acquisition of correct views with respect to the financial state of the country, and the operations of ministers, it is necessary that we should make a few observations on the Sinking Fund System. We shall endeavour to be as brief as possible.

The plan for the gradual extinction of the National Debt, by consolidating the various surpluses of revenue arising from the reduction of interest and other sources, into a SINKING FUND, to be constantly applied to purchase stock, was first proposed by Earl Stanhope, and adopted by Sir Robert Walpole, so early as 1716; and its advantages, from its being supposed to operate at compound interest, are very fully detailed and distinctly pointed out, in an elaborate tract on the Public Debts of the Kingdom, ascribed to Sir Nathaniel Gould, M. P., and published in 1726. The act establishing the Sinking Fund declared, that the various surpluses of which it consisted, 'shall be appropriated, reserved, and employed, to and for the discharge of the principal and interest of such national debts and

'*encumbrances as were incurred before the 25th December 1716, and to and for no other use, intent, or purpose whatsoever.*' But, in despite of this clear and explicit enactment, the Sinking Fund was very soon perverted from its original destination. Several disguised encroachments had been made in the interval between 1727 and 1732; but the first open and avowed encroachment was made in 1733. In 1732, the land-tax had been reduced to 1s. in the pound; and in order to supply the deficiency of revenue that had been thus occasioned, half a million had been borrowed, and the interest charged to the salt-tax, which was now revived, after being abolished only two years before. In the following year, it became necessary to raise an additional 500,000*l.*, and Sir Robert Walpole moved that it should be taken from the Sinking Fund; adding, that if this proposal were objected to, he should be obliged to increase the land-tax from 1s. to 2s. in the pound. The motion was, of course, carried by a very great majority; and in 1735 and 1736, the entire produce of the Fund was anticipated and mortgaged!

The Authors of the *History and Proceedings of the House of Lords*, in giving an account of this alienation, judiciously observe, 'When any additional tax is imposed, the public feel the weight of the annual public expense. This puts them upon inquiring into the necessity of that expense; and when they can see no necessity for it, they murmur, and those murmurs become dangerous to the minister. Whereas, no man feels what is taken from the Sinking Fund; therefore, no man inquires into the necessity of that expense which occasions its being plundered; and for this reason, *it will be always looked upon by ministers as a fund which they may squander with safety.*' (Vol. IV. p. 511.)

Dr Price laments this perversion in the most piteous terms. 'Thus,' says he, 'after an existence of a few years, expired the Sinking Fund, that sacred blessing—once the nation's only hope—prematurely and cruelly destroyed by its own parent. Could it have escaped the hands of violence, it would have made us the envy and terror of the world, by leaving us at this time, not only *tax free*, but in possession of a treasure, greater, perhaps, than ever was enjoyed by any kingdom.'

But although Dr Price is perfectly right in censuring Sir Robert Walpole for not imposing additional taxes to meet the deficiency in the disposable revenue, he is totally wrong in his estimate of the effects of a Sinking Fund. The truth is, that, no Sinking Fund, even though it consisted of a clear surplus revenue, ever really operates at compound interest. Suppose, to illustrate this position, that there is a million of surplus cash in the Treasury, which is to be formed into a Sinking Fund;

In the first place, the commissioners for managing this fund would purchase a million's worth of stock, and would receive, at the end of the year, the dividend or interest on this stock, which had previously been paid to the public creditor: If this dividend were 50,000*l.*, the commissioners would purchase additional stock with it; in consequence, they would, at the end of the second year, have 52,500*l.* to invest in a new purchase; at the end of the third year, this sum would be increased to 55,125*l.*, and so on. Now, this is what Sir Nathaniel Gould, Dr Price, and Mr Pitt, call paying off the public debt by a Sinking Fund operating at compound interest. It is obvious, however, that there is really no such thing as a fund producing money, by its own agency, to pay off debt; and that whatever diminution is effected in the amount of the public debt, is effected by applying a portion of *the produce of taxation* to its extinction. The dividends which come into the hands of the commissioners, and which alone enable them to purchase additional quantities of stock, are all obtained from the tax-gatherer, and must, therefore, have been produced by the industry of the people. It is true, that by constantly applying the same amount of revenue to the extinction of a given amount of debt, its reduction is effected in the *same way* as if the original surplus, placed in the hands of the commissioners, had been actually increasing, by an inherent energy of its own, at compound interest; but it is essential to know, that though the modes of operation be the same, the means are totally different. The debt is reduced, because a portion of the taxes have been applied to pay it off; but it is not, and it is utterly impossible that it can ever be, reduced by the mere operation of a fund increasing at compound interest. To make capital increase at compound interest, it must be employed in some sort of productive industry; and the profits, instead of being consumed as income, must be regularly added to the principal, to form a new capital. It is unnecessary to say, that no such Sinking Fund has ever existed. Those that have been set on foot in this and other countries, have all been supported either by loans or by the produce of taxes, and have never paid off a single shilling of debt by their own agency. We are not, however, to consider this notion of the wonder-working effects of Sinking Funds, as being only a mere harmless delusion; for, so far from this, there can be no question that it has, by making the people believe that the greatest amount of debt might be defrayed without loss to any one by certain mystical operations, been one of the principal causes of the ruinous extension of the Funding System.

Delusive and absurd, however, as his notions with respect to the effect of sinking funds operating at compound interest cer-

tainly were, the writings of Dr Price gave them the greatest currency; and, coupled with some visionary calculations he had made respecting the number of *globes of gold* to which a penny laid out at compound interest at the birth of Jesus Christ would have amounted in 1772, completed the delusion. The most intelligent men in the country were made to believe, that the public debt might be diminished, notwithstanding the contraction of new loans, by the operation of a sinking fund; that war, while such a scheme was going on, would increase its efficacy; and that any suspension of it then, would be the madness of giving it a mortal stab, *at the very time it was making the quickest progress towards the accomplishment of its end.** Mr Pitt's famous Sinking Fund of 1786 was entirely founded on the principles and calculations of Dr Price. To constitute this fund, *one million per annum* was appropriated by Parliament, which was to be allowed to accumulate at compound interest, by the addition of the dividends on the stock which it purchased. In 1792 some farther additions were made to this fund; and it was also enacted, that besides providing for the interest of any loan that might henceforth be contracted, additional taxes should be imposed to form a sinking fund of *one per cent.* on the capital stock created by such loan. As there was a considerable excess of revenue in the period from 1786 to 1793, the debt was reduced by about 10½ millions, and this reduction was ascribed to the effect of the Sinking Fund operating at compound interest, though it is plain it entirely resulted from the application of surplus revenue to the purchase of stock. Subsequently to the commencement of the late Bourbon restoration war, the income of the country uniformly fell greatly short of the expenditure, and the debt rapidly increased. But although there was no *annual million* in the Treasury to transfer to the Commissioners, the juggle of the sinking fund was, notwithstanding, kept up. The loans for the service of the year were uniformly increased, by the *whole amount* of the sums placed at the disposal of the Sinking Fund Commissioners; so that, *for every shilling's worth of stock transferred to them by this futile proceeding, an equal amount of NEW DEBT had to be contracted*, exclusive of the loss incurred on account of the expense of management!

And yet this clumsy compound of delusion and quackery was lauded by all parties. The opposition vied with the ministry in celebrating its praises. The Sinking Fund was universally considered as the great bulwark of the country; and so lasting and powerful was the infatuation, that after *fourteen*

* Price's Appeal to the Public on the subject of the National Debt. p. 17.

years' experience of its absolute nullity, when Lord Henry Petty, now Marquis of Lansdowne, introduced his plan of finance in 1807, it contained a system of checks to prevent the evils likely to result from allowing the Sinking Fund to accumulate without any limit, and deluging the country with a flood of wealth, by 'a too prompt discharge of the public debt!' We doubt whether the history of the world can furnish another instance of so extraordinary a delusion. Had the Sinking Fund involved any mysterious or unintelligible dogmas,—had it addressed itself to popular feelings and passions,—or had the notion of its efficacy originated with the mob, the prevalence of the delusion would have been less unaccountable. But the Sinking Fund was from the first a matter of pure calculation; it was projected by some of the best informed persons in the country, who continued for upwards of twenty years to believe, that they were rapidly diminishing the public debt by the agency of a Sinking Fund, which was all the while kept on foot by *borrowed money*! Dr Hamilton has the merit of having dissipated this delusion—the grossest, certainly, by which any people have ever suffered themselves to be blinded and deceived. He showed that the Sinking Fund, instead of reducing the debt, had really been the means of increasing it: And he proved to demonstration, that the *excess of revenue above expenditure is the only real Sinking Fund by which the public debt can be discharged*. 'The increase of revenue,' he observes, 'or the diminution of expense, are the only means by which this Sinking Fund can be enlarged, and its operations rendered more effectual; and all schemes for discharging the National Debt, by Sinking Funds operating at *compound* interest, or in any other manner, unless in so far as they are founded upon this principle, are completely illusory.'

We have already seen, that the portion of the loans transferred to the Sinking Fund Commissioners in the interval between 1793 and 1817, amounted to 188,522,350*l.*, and the expense of the office of the Commissioners for the same period was 62,968*l.*, making together 188,585,318*l.*; which sum, as it was all borrowed, occasioned an annual charge to the public of 9,771,063*l.** But the stock which the Commissioners purchased with this sum of 188,522,350*l.* transferred to them out of the loans, only yielded an annual dividend of 9,168,233*l.* On the one hand, therefore, an annual charge of 9,771,063*l.* was incurred to enable the Sinking Fund Commissioners to go to market; and, on the other, they bought stock which yields 9,168,233*l.* a year; so that, on the whole, *their operations during the war have occasioned a dead loss to the country of 602,830*l.**

* See Mr Hume's Resolutions, No. 6.

a year, equivalent to a 3 per cent. capital of 20,894,333*l.* Since the peace, the operations of the Commissioners have been equally injurious; and Mr Hume has shown, in his 25th Resolution, that the charge on account of the funded debt was 356,153*l.* a year, greater in 1822, than it would have been had the Sinking Fund been abolished in 1817.

There was only one part of Mr Pitt's plan that was really calculated to afford the means of reducing the debt; and that was, the clause moved by Mr Fox, which enacted, that taxes should be imposed, not only to provide for the interest of such loans as might be contracted in future, but also to provide a sinking fund of one per cent. on the stock so created. Had this clause been scrupulously observed, a fund would undoubtedly have been formed, which, had it been *exclusively applied to that object*, would ultimately have extinguished the debt contracted during the war; but it is essential to bear in mind, that it would have done this, not by the operation of compound interest, but by *raising a larger amount of taxes than was required to pay the dividends on the loans*. A new capital of 879,290,042*l.* of funded debt had been created in the interval between 1793 and 1817, * one per cent. on which, exclusive of accumulations, would have been 8,792,900*l.* But, instead of having a surplus income of this amount at the end of the war, when the nominal sinking fund amounted to about 15 millions, the clear real surplus did not amount to *two* millions; the taxes imposed to form a sinking fund on the capital of the loans having been all anticipated and mortgaged, by charging them with the interest of loans made in 1807, 1809, and 1812. It is indeed much worse than absurd to suppose, that a surplus revenue, existing in the shape of a sinking fund, will ever be unceasingly applied to the extinction of debt. It may be so applied for a few years; but, whenever any considerable difficulty is experienced in raising taxes to defray extraordinary expense, it will infallibly be diverted, as all such funds have ever been, from its proper and peculiar object. If Mr Pitt really believed that his one per cent. sinking fund would be allowed to accumulate in all time to come, we can only say, that we consider it as a more extraordinary delusion than his belief in the operations of Dr Price's globe-generating penny. But ministers have now become either more knowing, or more candid. Mr Vansittart stated, in 1813, that the sum produced by the sinking fund '*would be an instrument of great force in the hands of Parliament, which might lead to the most important results*;'—though it is obvious, that Parliament can have no control whatever over the sinking fund,

* Parliamentary Paper, No. 145. Sess. 1822.

until it has been diverted from its proper object—the payment of the public debt. Lord Londonderry went still farther than Mr Vansittart; for he distinctly stated, in his place in Parliament in 1822, that ‘ he had never represented the sinking fund ‘ as a saving to be held sacred, but as a *mode of placing a large sum at the disposal of Parliament, to be by them disposed as might be thought most equitable*, whether for the relief of a ‘ pressing exigency of the present day, or for the security of ‘ posterity.’

• The real effect then of such a sinking fund as that which ministers are now attempting to raise in this country, is not to diminish debt, but to *encourage expenditure*. ‘ There cannot,’ says Mr Ricardo, ‘ be a greater security for the continuance of peace, ‘ than the imposing on ministers the necessity of applying to ‘ the people for taxes to support a war. Suffer the sinking ‘ fund to accumulate during peace to any considerable sum, and ‘ very little provocation would induce them to enter into a new ‘ contest. They would know that, by a little management, ‘ they could make the sinking fund available to the raising of a ‘ new supply; instead of being available to the payment of the ‘ debt. The argument is now common in the mouths of ministers when they wish to lay on new taxes, for the purpose of ‘ creating a new sinking fund in lieu of one which they have ‘ just spent, to say, “ It will make foreign countries respect us; “ they will be afraid to insult or provoke us, when they know “ that we are possessed of so formidable a resource.” What ‘ do they mean by this argument, if the sinking fund be not ‘ considered by them as a *war fund*, on which they can draw in ‘ support of the contest? It cannot, at one and the same time, ‘ be employed to annoy an enemy, and to pay debt. If taxes ‘ are, as they ought to be, raised to defray the expenses of ‘ a war, what facility will a sinking fund give to the raising of them? None whatever. It is not because the possession of a sinking fund will enable them to raise new and ‘ additional taxes that ministers prize it, for they know it will ‘ have no such effect, but *because they know that they will be enabled to substitute the sinking fund in lieu of taxes, and to employ it, as they have always done, in war, and in providing for ‘ the interest of fresh debt.*’ (*Art. Funding System, Supp. to Encyclopædia Britannica.*

We should not object to the raising of a surplus revenue to be applied to the extinction of debt, provided there were any security that it would be so applied. But we object to it, because it is not in the nature of things that any such security can be given. Whenever an occasion arises, the minister will lay his capacious hands on the sinking fund; and the circumstance

of his being aware that he can do this, will make him less disposed to avoid involving the country in unnecessary disputes and quarrels.

But in despite of the suggestions of common sense, and of all previous experience, ministers are again struggling to raise a sinking fund of *five* millions. To accomplish this purpose, they have had recourse to some very singular expedients. Of these, the most remarkable seems to be the scheme for *equalizing* the charge on account of the half pay and pensions, or, as it is more commonly termed, the *dead weight*. The charge on account of half pay, pensions, &c. amounted last year to about *five* millions; but this was necessarily a *constantly decreasing* charge, and would have entirely ceased in about forty or forty-five years. Instead, however, of leaving it to be gradually extinguished by the death of the annuitants, ministers have created a set of Trustees who are annually to borrow, on the best terms they can, a series of constantly diminishing loans, the Treasury furnishing them with the same unvarying sum of 2,800,000*l.* a year, for a period of forty-five years, to enable them to pay off these loans! This is plainly neither more nor less than resorting to the spendthrift expedient of *post obit* bonds, and attempting to procure a little momentary relief at the certainty of a much greater ultimate cost. It is a scheme pregnant with all the vices of the funding system; and ought not to have been resorted to, except in the most desperate extremity.

If the oporose and clumsy jugglery of a sham sinking fund cost nothing, it might be kept up for the amusement and consolation of old women, financiers, and country gentlemen. But it is not less costly and expensive than it is deceitful and absurd. According to the subjoined statement, there has been an excess of revenue over expenditure, between the 5th of January 1816 and the 5th January 1822, of 7,528,869*l.* * and the interest on the unfunded debt has also been reduced, in the same interval,

Total Income of the United Kingdom— drawbacks excepted.		Total Expenditure of the United Kingdom, exclu- sive of Sinking Fund.	
* 1817	L. 57,650,589	—	L. 58,544,049
1818	59,667,911	—	57,872,428
1819	58,680,252	—	57,392,544
1820	59,769,680	—	57,476,755
1821	60,686,076	—	57,639,893
<hr/>		<hr/>	
Income	296,454,538	—	Exp. 288,925,669
	288,925,669		

L. 7,528,869 Excess of income over expenditure in
the five years from 1816 to 1822.

from 3½d. to 2d. per cent. per diem. It is evident, therefore, that had there been no juggling, but had this surplus revenue been fairly and honestly applied to the extinction of the debt, both the *principal* and the *interest* would have been proportionally diminished. But this simple and straight forward course did not suit the views of ministers; they preferred indulging their own, and perhaps we ought also to add the public taste, by exhibiting a few more hocus-pocus tricks and legerdemain operations. In consequence, the surplus revenue or sinking fund, which really amounted to only 1,505,774*l.* a year, was called *five millions!* To carry it to this sum, money was *borrowed*, by the Annuity Trustees, from the Bank, and called income. There were, besides, a variety of subordinate operations: One species of stock was bartered for another; the public accounts were rendered nearly unintelligible—and, as the natural result of the whole, it is found, at the end of six years, that, so far from being diminished, the charge on account of the unredeemed debt has been *considerably increased!*

As a specimen of the careless manner in which the financial statements of Ministers are got up, and of the little credit due to them, it is enough to mention, that Mr Robinson stated in his place in the House of Commons, on the 3d of March,—and we have not the slightest doubt that he stated the honest conviction of his mind,—that the *Sinking Fund* had paid off 24,766,520*l.* in the interval between the 5th of January 1816 and the 5th of January 1822! It has been shown, however, from the official accounts published by authority of Parliament, that no less than 22,454,578*l.* of this reduction was effected independently altogether of the agency of the Sinking Fund, partly by the application of the surplus loans of 1815 to the extinction of debt, and partly by the exchange of stock bearing a *low* interest for stock bearing a *high* interest! Can any man doubt, that had there been a real *bona fide* payment of 24 millions of debt, the charge on account of *interest* must have been considerably reduced? But, instead of any such reduction having taken place, the interest of the public debt amounted to full 700,000*l.* more in 1821 than in 1817! Now, it is obvious, that *twenty-four millions of debt paid off*, and 700,000*l.* a year *added to the interest*, are rather irreconcilable propositions; and our only regret is, that while the latter is undoubtedly true, the former should be altogether hypothetical and visionary! The statement we now subjoin is substantially the same with one that was published soon after Mr Robinson's speech; and when either he, or any one else, shall confute it, we shall again examine whether an increase of charge be really the infallible result of a diminution of debt!

By Parliamentary paper of 1819, No. 35, the amount of the
Unredeemed Funded Debt, on the 5th January

1816, was, - - - L. 816,311,939
Reduced, on the 5th January 1822, to - 795,312,767

Amount of diminution - L. 20,999,172
And the Unfunded, 5th Jan. 1816 * L. 43,938,223
Ditto, 5th January 1822, - 41,514,061

2,424,162

Total diminution - L. 23,423,334
The Chancellor of the Exchequer says, the dimi-
nution is (which admit) - 24,766,520

Accounted for as follows, viz. of loans raised in
1815, for which upwards of 87 millions of capital
was created, and *all included* in the account on
the 5th January 1816, at the rate of 100*l.* for
every 52*l.* of money received, *there remained to*
*be paid up 5,939,803*l.* of money after the 5th Ja-*
nuary 1816, with which the very same stock creat-
*ed for 52*l.* was repurchased for 82*l.* to the amount*
of - - - 9,563,082

And there was cancelled, between the 5th January
1816, and 5th January 1822, by conversion into
life annuities 3 per cents., to the amount of - 3,268,894

And in 1816, *three millions* were received from the
Bank for an annuity of 90,000*l.*, with which
4,840,000*l.* of other 3 per cent. stock was can-
celled, being an excess of - 1,840,000

And in 1818, 2,999,920*l.* was received of certain
holders of 3 per cent. stock as a bonus, to con-
vert 27,272,000*l.* of 3 per cent. into a 3½ per
cent., and *with the money so received*, 3 per cent.
stock was purchased, to the amount of (Vide A) 3,846,000

And in 1820, seven millions of Exchequer Bills
were funded in the 5 per cents., and with the a-
mount 10,202,500*l.* of 3 per cents. were purchas-
ed, being an excess of (Vide B) - 3,272,500

And there has been 664,030*l.* of 3 per cent. cancel-
led by the redemption of Land Tax - 684,030

Amount of diminution accounted for - L. 22,454,576
Leaving, by the operation of the Sinking Fund, a diminution
of only 2,311,944*l.*, according to the Chancellor of the Exche-

* The Navy and Ordnance bills excepted.

quer's own statement, but of 968,751*l.* only, according to the real fact; although in the same period there has been an excess of Revenue of no less than 7,528,869*l.*, as stated in the *note* to page 38; and so far from there being any diminution in the annual charge, although the rate of interest on the unfunded debt has been reduced from 3½*d.* to 2*d.* per cent. per diem, making a total reduction of no less than 941,500*l.* per annum, the charge on account of the interest and management of the unredeemed debt, funded and unfunded together, was greater on the 5th January last than in any previous year since 1816!

(A) The transfer of the 27,272,000 <i>l.</i> of 3 per cent., to 3½ per cent., increased the annual charge	L.136,360
Whilst the 2,990,920 <i>l.</i> , money received, cancelled only	115,380

Consequently a loss in perpetuity of no less than L.20,980 per ann.
equal to 699,933*l.* of 3 per cent. capital.

(B) And in like manner the funding of the seven millions of Exchequer Bills, in 1820, created an annual charge of	L.346,500
But the same amount cancelled, derived on 3 per cent. stock, only	306,075

Consequently a loss in perpetuity of no less than L.40,425 per ann.
equal to 1,347,500*l.* of 3 per cent. capital.

Thus it appears, that every statement made by Ministers since 1816, with respect to the financial situation of the country, has been completely nugatory, fallacious, and unfounded. Instead of reducing the debt, they have considerably increased it. Their Sinking Funds, stock transferences, and other *hocus-pocus* tricks and devices, have cost the public 7,528,000*l.* of surplus revenue, and 700,000*l.* of additional burden! Perhaps this is not enough to show the propriety of abandoning this system of fraud, jugglery, and delusion. And we doubt not, that if the public continue to manifest the same degree of stupid indifference to the financial quackery of Ministers that they have hitherto done, they will, as they ought, be graciously favoured with some still more striking proofs of the efficiency of the Sinking Fund, to *sink* them still deeper in debt and difficulties.

The following statement, on the accuracy of which our readers may rely, exhibits the present state of our revenue and expenditure:—

STATEMENT of the Actual Revenue of the United Kingdom of Great Britain and Ireland (Drawbacks, and Bounties of the nature of Drawbacks, excluded) for the years ending the 5th of January 1821 and 1822; distinguishing the several heads of Income, and Great Britain from Ireland in each year:—

Heads of Income.	Year ending 5th Jan. 1821.			Year ending 5th Jan. 1822.		
	L.	s.	d.	L.	s.	d.
Customs - - -	10,547,579	2	4	11,010,318	5	10
Excise - - -	28,055,314	2	8	28,303,763	10	0
Stamps - - -	6,538,895	17	11	6,614,549	19	9
Land and Assessed taxes	8,355,321	18	10	8,205,033	7	9
Post office - -	2,122,928	7	6	2,081,780	15	9
Salaries and Pensions -	30,811	8	2	83,775	13	0
Hack Coaches and Posting	56,988	8	10	58,419	11	4
Hereditary revenues -	132,967	7	4	141,148	4	1
Total ordinary revenues -	55,810,806	13	10	56,498,789	8	8
Property-tax Arrears -	57,013	5	6	47,978	12	4
Lottery - - -	175,154	10	2	219,139	16	0
Unclaimed dividends -	283,810	7	11	83,910	13	8
Imprests, &c. - -	343,902	16	5	262,105	8	5
Total extra revenues -	859,911	0	0	613,139	10	0
Total of Great Britain -	56,700,717	13	11	57,111,923	17	8
Total of Ireland - -	4,933,351	17	7	5,351,881	11	0
Total of the United Kingdom } exclusive of Loans	61,634,069	11	6	62,463,803	8	9
Deduct balances - -	1,864,389	6	7	1,774,890	14	2
Total actual revenue of the } United Kingdom	59,769,680	4	11	60,688,914	14	7
The total expenditure for the } United Kingdom, for the same period, exclusive of the sinking fund, has been	57,618,891	0	0	57,783,297	0	0
Leaving an excess of revenue } over expenditure of	2,150,789	0	0	2,908,617	0	0

Here is another proof, that had there been no Sinking Fund, the debt would have been reduced about *five* millions during these *two* years; but instead of any such reduction taking place, it has actually been increased!

In a future Number, we shall state our views with respect to the best and most efficient plan for really reducing the public debt.

ART. II. *A Letter to the Chairman of the Committee of the House of Commons, on the Game Laws.* By the Hon. and Rev. WILLIAM HERBERT. Ridgway, 1823.

ABOUT the time of the publication of this little pamphlet of Mr Herbert, a Committee of the House of Commons published a Report on the Game Laws, containing a great deal of very curious information respecting the sale of game, an epitome of which we shall now lay before our readers. The country higglers who collect poultry, gather up the game from the depôts of the poachers, and transmit it in the same manner as poultry, and in the same packages, to the London poulterers, by whom it is distributed to the public; and this traffic is carried on (as far as game is concerned) even from the distance of Scotland. The same business is carried on by the porters of stage-coaches; and a great deal of game is sold clandestinely by lords of manors,—or by gamekeepers, without the knowledge of lords of manors; and principally, as the evidence states, from Norfolk and Suffolk, the great schools of steel-traps and spring-guns. The supply of game too, is proved to be quite as regular as the supply of poultry; the number of hares and partridges supplied rather exceeds that of pheasants; but any description of game may be had to any amount. Here is a part of the evidence.

‘Can you at any time procure any quantity of game?—I have no doubt of it. If you were to receive almost an unlimited order, could you execute it?—Yes, I would supply the whole city of London, any fixed day once a week, all the year through, so that every individual inhabitant should have game for his table. Do you think you could procure a thousand pheasants?—Yes; I would be bound to produce *ten thousand* a week. You would be bound to provide every family in London with a dish of game?—Yes; a partridge, or a pheasant, or a hare, or a grouse, or something or other. How would you set about doing it?—I should of course request the persons with whom I am in the habit of dealing, to use their influence to bring me what they could by a certain day; I should speak to the dealers

and the mail-guards, and coachmen, to produce a quantity; and I should send to my own connexions in one or two manors where I have the privilege of selling for those gentlemen; and should send to Scotland to say, that every week the largest quantity they could produce was to be sent. Being but a petty salesman, I sell a very small quantity: But I have had about 4000 head direct from one man. Can you state the quantity of game which has been sent to you during the year?—No; I may say perhaps 10,000 head; mine is a limited trade; I speak comparatively to that of others; I only supply private families.' *Report*, p. 20.

Poachers who go out at night cannot, of course, like regular tradesmen, proportion the supply to the demand, but having once made a contract, they kill all they can; and hence it happens that the game market is sometimes very much overstocked, and great quantities of game either thrown away, or disposed of by Irish hawkers to the common people at very inferior prices.

'Does it ever happen to you to be obliged to dispose of poultry at the same low prices you are obliged to dispose of game?—It depends upon the weather; often when there is a considerable quantity on hand, and owing to the weather, it will not keep till the following day, I am obliged to take any price that is offered; but we can always turn either poultry or game into some price or other; and if it was not for the Irish hawkers, hundreds and hundreds of heads of game would be spoiled and thrown away. It is out of the power of any person to conceive for one moment the quantity of game that is hawked in the streets. I have had opportunity more than other persons of knowing this; for I have sold, I may say, more game than any other person in the city; and we serve hawkers indiscriminately, persons who come and purchase probably six fowls or turkeys and geese, and they will buy heads of game with them.'—*Report*, p. 22.

Live-birds are sent up as well as dead; eggs as well as birds. The price of pheasants' eggs last year was 8s. per dozen; of partridges eggs, 2s. The price of hares was from 3s. to 5s. 6d.; of partridges, from 1s. 6d. to 2s. 6d.; of pheasants, from 5s. to 5s. 6d. each, and sometimes as low as 1s. 6d.

'What have you given for game this year?—It is very low indeed; I am sick of it; I do not think I shall ever deal again. We have got game this season as low as half a crown a brace (birds), and pheasants as low as 7s. a brace. It is so plentiful, there has been no end to spoiling it this season. It is so plentiful, it is of no use. In war time it was worth having; then they fetched 7s. and 8s. a brace.' *Report*, p. 33.

All the poulterers, too, even the most respectable, state, that it is absolutely necessary they should carry on this illegal traffic in the present state of the game laws; because their regu-

lar customers for poultry would infallibly leave any poulterer's shop from whence they could not be supplied with game.

'I have no doubt that it is the general wish at present of the trade not to deal in the article; but they are all, of course, compelled from their connexions. If they cannot get game from one person, they can from another.

'Do you believe that poulterers are not to be found who would take out licenses, and would deal with those very persons, for the purposes of obtaining a greater profit than they would have dealing as you would do?—I think the poulterers in general are a respectable set of men, and would not countenance such a thing; they feel now that they are driven into a corner; that there may be men who would countenance irregular proceedings, I have no doubt. Would it be their interest to do so, considering the penalty?—No, I think not. The poulterers are perfectly well aware that they are committing a breach of the law at present. Do you suppose that those persons, respectable as they are, who are now committing a breach of the law, would not equally commit that breach if the law were altered?—No, certainly not; at present it is so connected with their business that they cannot help it. You said just now, that they were driven into a corner; what did you mean by that?—We are obliged to aid and abet those men who commit those depredations, because of the constant demand for game, from different customers whom we supply with poultry. Could you carry on your business as a poulterer, if you refused to supply game?—By no means; because some of the first people in the land require it of me'—*Report*, p. 15.

When that worthy Erorist, Mr Bankes, brought in his bill of additional severities against poachers, there was no man of sense and reflection who did not anticipate the following consequences of the measure.

'Do you find that less game has been sold in consequence of the bill rendering it penal to sell game?—Upon my word, it did not make the slightest difference in the world. Not immediately after it was made?—No; I did not think it made the slightest difference. It did not make the slightest sensation?—No, I never sold a bird less. Was not there a resolution of the poulterers not to sell game?—I was secretary to that committee. What was the consequence of that resolution?—A great deal of ill blood in the trade. One gentleman who just left the room, did not come into my ideas. I never had a head of game in my house; all my neighbours sold it; and as we had people on the watch, who were ready to watch it into the houses, it came to this, we were prepared to bring our actions against certain individuals, after sitting, perhaps, from three to four months every week, which we did at the Crown and Anchor in the Strand, but we did not proceed with our actions, to prevent ill blood in the trade. We regularly met, and, as we conceived at the time, formed a committee of the most respectable of the trade. I was secretary of that committee. The game was sold in the city, in the vicinity of the Royal Exchange, cheaper than ever was known, because the

people at our end of the town were afraid. I, as a point of honour, never had it in my house. I never had a head of game in my house that season. What was the consequence? I lost my trade, and gave offence to gentlemen; a nobleman's steward, or butler, or cook, treated it as contumely; "Good God, what is the use of your running your head against the wall!" You were obliged to begin the trade again?—Yes, and sold more than ever.'—*Report*, p. 18.

These consequences are confirmed by the evidence of every person before the Committee.

All the evidence is very strong as to the fact, that dealing in game is not discreditable; that there are a great number of respectable persons, and, among the rest, the first poulterers in London, who buy game knowing it to have been illegally procured, but who would never dream of purchasing any other article procured by dishonesty.

'Are there not to your knowledge, a great many people in this town who deal in game, by buying or selling it, that would not on any account buy or sell stolen property?—Certainly; there are many capital tradesmen, poulterers, who deal in game, that would have nothing to do with stolen property; and yet I do not think there is a poulterer's shop in London, where they could not get game, if they wanted it. Do you think any discredit attaches to any man in this town for buying or selling game?—I think none at all; and I do not think that the men to whom I have just referred, would have any thing to do with stolen goods. Would it not, in the opinion of the inhabitants of London, be considered a very different thing dealing in stolen game, or stolen poultry?—Certainly. The one would be considered disgraceful, and the other not?—Certainly; they think nothing of dealing in game; and the farmers in the country will not give information; they will have a hare or two of the very men who work for them, and they are afraid to give us information.'—*Report*, p. 31.

The evidence of Daniel Bishop, one of the Bow-Street officers, who has been a good deal employed in the apprehension of poachers, is curious and important, as it shows the enormous extent of the evil, and the ferocious spirit which the game-laws engender in the common people. 'The poachers (he says) came 16 miles. The whole of the village from which they were taken were poachers; the constable of the village, and the shoemaker, and other inhabitants of the village. I seized one man 22 miles. There was the son of a respectable gardener, one of these was a sawyer, and another a baker, who kept a good shop there. If the village had been alarmed, we should have had some mischief; but we were all prepared with fire-arms. If poachers have a spite with the game-keeper, that would induce them to go out in numbers to resist him. This party I speak of, had something in their hats

‘ to distinguish them. They take a delight in setting to with the gamekeepers; and talk it over afterwards how they served so and so. They fought with the butt-ends of their guns at Lord Howe’s; they beat the gamekeepers shockingly.’—‘ Does it occur to you (Bishop is asked) to have had more applications, and to have detected more persons this season than in any former one? Yes; I think within four months there have been twenty-one transported that I have been at the taking of, and through one man turning evidence in each case, and without that they could not have been identified; the gamekeepers could not, or would not identify them. The poachers go to the public house and spend their money; if they have a good night’s work, they will go and get drunk with the money. The gangs are connected together at different public houses, just like a club at a public house; they are all sworn together. If the keeper took one of them, they would go and attack him for so doing.’

Mr Stafford, chief clerk of Bow-Street, says, ‘ All the offences against the game-laws which are of an atrocious description, I think are generally reported to the public office in Bow-Street, more especially in cases where the keepers have either been killed, or dangerously wounded, and the assistance of an officer from Bow-Street is required. The applications have been much more numerous of late years than they were formerly. Some of them have been cases of murder; but I do not think many have amounted to murder. There are many instances in which keepers have been very ill treated—they have been wounded, skulls have been fractured, and bones broken; and they have been shot at. A man takes an hare, or a pheasant, with a very different feeling from that with which he would take a pigeon or a fowl out of a farm-yard. The number of persons that assemble together is more for the purpose of protecting themselves against those that may apprehend them, than from any idea that they are actually committing depredation upon the property of another person; they do not consider it as property. I think there is a sense of morality and a distinction of crime existing in men’s minds, although they are mistaken about it. Men feel

* It is only of late years that men have been transported for shooting at night. There are instances of men who have been transported at the Sessions for night-poaching, who made no resistance at all when taken; but then their characters as old poachers weighed against them—characters estimated probably by the very lords of manors who had lost their game. This disgraceful law is the occasion of all the murders committed for game.

‘ that if they go in a great body together, to break into an house, or to rob a person, or to steal his poultry, or sheep, they are committing a crime against that man’s property ; but I think with respect to the game, they do not feel that they are doing any thing which is wrong ; but think they have committed no crime when they have done the thing, and their only anxiety is to escape detection.’ In addition, Mr Stafford states that he remembers not *one single conviction under Mr Bankes’s Act against buying game* ; and not one conviction for buying or selling game within the last year has been made at Bow-Street.

The inferences from these facts are exactly as we predicted, and as every man of common sense must have predicted—that to prevent the sale of game is absolutely impossible. If game is plentiful, and cannot be obtained at any lawful market, an illicit trade will be established, which it is utterly impossible to prevent by any increased severity of the laws. There never was a more striking illustration of the necessity of attending to public opinion in all penal enactments. Mr Bankes (a perfect representative of all the ordinary notions about forcing mankind by pains and penalties) took the floor. To buy a partridge (though still considered as inferior to murder) was visited with the very heaviest infliction of the law ; and yet, though game is sold as openly in London as apples and oranges, though three years have elapsed since this legislative mistake, the officers of the police can hardly recollect a single instance where the information has been laid, or the penalty levied : And why ? because every man’s feelings and every man’s understanding tell him, that it is a most absurd and ridiculous tyranny to prevent one man, who has more game than he wants, from exchanging it with another man, who has more money than he wants—because magistrates will not (if they can avoid it) inflict such absurd penalties—because even common informers know enough of the honest indignation of mankind, and are too well aware of the coldness of pump and pond to act under the bill of the *Lycurgus of Corfe Castle*.

The plan now proposed is, to undersell the poacher, which may be successful or unsuccessful ; but the threat is, if you attempt this plan there will be no game—and if there is no game, there will be no country gentlemen. We deny every part of this enthymeme—the last proposition as well as the first. We really cannot believe that all our rural mansions would be deserted, although no game was to be found in their neighbourhood. Some come into the country for health, some for quiet, for agriculture, for economy, from attachment to family estates, from love of retirement, from the necessity of keeping up pro-

vincial interests, and from a vast variety of causes. Partridges and pheasants, though they form nine-tenths of human motives, still leave a small residue, which may be classed under some other head. Neither are a great proportion of those whom the love of shooting brings into the country, of the smallest value or importance to the country. A Colonel of the Guards, the second son just entered at Oxford, three Diners out from Piccadilly—Major Rock, Lord John, Lord Charles, the Colonel of the regiment quartered at the neighbouring town, two Irish Peers, and a German Baron;—if all this honourable company proceed with fustian jackets, dog-whistles, and chemical inventions, to a solemn destruction of pheasants, how is the country benefited by their presence? or how would earth, air or sea, be injured by their annihilation? There are certainly many valuable men brought into the country by a love of shooting, who, coming there for that purpose, are useful for many better purposes; but a vast multitude of shooters are of no more service to the country than the ramrod which condenses the charge, or the barrel which contains it. We do not deny that the annihilation of the game-laws would thin the aristocratical population of the country; but it would not thin that population so much as is contended; and the loss of many of the persons so banished would be a good, rather than a misfortune. At all events, we cannot at all comprehend the policy of alluring the better classes of society into the country, by the temptation of petty tyranny and injustice, or of monopoly in sports. How absurd it would be to offer to the higher orders the exclusive use of peaches, nectarines, and apricots, as the premium of rustication—to put vast quantities of men into prison as apricot-eaters, apricot-buyers, and apricot-sellers—to appoint a regular day for beginning to eat, and another for leaving off—to have a lord of the manor for greengages—and to rage with a penalty of five pounds against the unqualified eater of the gage! And yet the privilege of shooting a set of wild poultry is stated to be the bonus for the residence of country gentlemen. As far as this immense advantage can be obtained without the sacrifice of justice and reason, well and good—but we would not oppress any order of society, or violate right and wrong, to obtain any population of squires, however dense. It is the grossest of all absurdities to say the present state of the law is absurd and unjust,—but it must not be altered, because the alteration would drive gentlemen out of the country! If gentlemen cannot breathe fresh air without injustice, let them putrify in Cranborne Alley. Make just laws, and let squires live and die where they please.

The evidence collected in the House of Commons respecting

the Game-laws, is so striking and so decisive against the gentlemen of the trigger, that their only resource is to represent it as not worthy of belief. But why not worthy of belief? It is not stated what part of it is incredible. Is it the plenty of game in London for sale? the unfrequency of convictions? the occasional but frequent excess of supply above demand in an article supplied by stealing? or its destruction when the sale is not without risk, and the price extremely low? or the readiness of grantees to*turn the excess of their game into fish or poultry? All these circumstances appear to us so natural and so likely, that we should, without any evidence, have had little doubt of their existence. There are a few absurdities in the evidence of one of the poulterers; but, with this exception, we see no reason whatever for impugning the credibility and exactness of the mass of testimony prepared by the Committee.

It is utterly impossible to teach the common people to respect property in animals bred the possessor knows not where—which he cannot recognise by any mark, which may leave him the next moment, which are kept, not for his profit, but for his amusement. Opinion never will be in favour of such property; if the *animus furandi* exists, the propensity will be gratified by poaching. It is in vain to increase the severity of the protecting laws. They make the case weaker, instead of stronger; and are more resisted and worse executed, exactly in proportion as they are contrary to public opinion:—The case of the game-laws is a memorable lesson upon the philosophy of legislation. If a certain degree of punishment does not cure the offence, it is supposed, by the Banks School, that there is nothing to be done but to multiply this punishment by two, and then again and again, till the object is accomplished. The efficient maximum of punishment, however, is not what the Legislature chooses to enact, *but what the great mass of mankind think the maximum ought to be.* The moment the punishment passes this Rubicon, it becomes less and less, instead of greater and greater. Juries and Magistrates will not commit—informers* are afraid of public indignation—poachers will not submit to be sent to Botany Bay without a

* There is a remarkable instance of this in the new Turnpike Act. The penalty for taking more than the legal number of outside passengers is ten pounds per head, if the coachman is in part or wholly the owner. This will rarely be levied: because it is too much. A penalty of 100*l.* would produce perfect impunity. The maximum of practical severity would have been about five pounds. Any magistrate would cheerfully levy this sum: while doubling it will produce reluctance in the Judge, resistance in the culprit, and unwillingness in the informer.

battle—blood is shed for pheasants—the public attention is called to this preposterous state of the law—and even ministers (whom nothing pesters so much as the interests of humanity) are at last compelled to come forward and do what is right. Apply this to the game-laws. It was before penal to sell game: within these few years, it has been made penal to buy it. From the scandalous cruelty of the law, night-poachers are transported for seven years. And yet, never was so much game sold, or such a spirit of ferocious resistance excited to the laws. One fourth of all the commitments in Great Britain are for offences against the game-laws. There is a general feeling, that some alteration must take place—a feeling not only among Reviewers, who never see nor eat game, but among the double-barrelled, shot-belted members of the House of Commons, who are either alarmed or disgusted by the vice and misery which their cruel laws and childish passion for amusement are spreading among the lower orders of mankind.

It is said, ‘in spite of all the game sold, there is game enough left; let the laws therefore remain as they are:’ and so it was said formerly, ‘there is sugar enough; let the slave-trade remain as it is.’ But at what expense of human happiness is this quantity of game or of sugar, and this state of poacher-law and slave-law, to remain! The first object of a good government is not that rich men should have their pleasures in perfection, but that all orders of men should be good and happy; and, if crowded covies and chuckling cock-pheasants are only to be procured by encouraging the common people in vice, and leading them into cruel and disproportionate punishment, it is the duty of the government to restrain the cruelties which the country members, in reward for their assiduous loyalty, have been allowed to introduce into the game-laws.

The plan of the new bill (long since anticipated, in all its provisions, by the acute author of the pamphlet before us) is, that the public at large should be supplied by persons licensed by magistrates, and that all qualified persons should be permitted to sell their game to these licensed distributors; and there seems a fair chance that such a plan would succeed. The questions are, Would sufficient game come into the hands of the licensed salesman? Would the licensed salesman confine himself to the purchase of game from qualified persons? Would buyers of game purchase elsewhere than from the licensed salesman? Would the poacher be undersold by the honest dealer? Would game remain in the same plenty as before? It is understood that the game-laws are to remain as they are; with this only difference, that the qualified man can sell to the licensed man, and the licentiate to the public.

It seems probable to us, that vast quantities of game would, after a little time, find their way into the hands of licensed poulterers. Great people are very often half eaten up by their establishments. The quantity of game killed in a large shooting party is very great; to eat it is impossible, and to dispose of it in presents very troublesome. The preservation of game is very expensive; and, when it could be bought, it would be no more a compliment to send it as a present than it would be to send geese and fowls. If game were sold, very large shooting establishments might be made to pay their own expenses. The shame is made by the law: there is a disgrace in being detected and fined. If that barrier were removed, superfluous partridges would go to the poulterers as readily as superfluous venison does to the venison butcher,—or as a gentleman sells the corn and mutton off his farm which he cannot consume. For these reasons, we do not doubt that the shops of licensed poulterers would be full of game in the season; and this part of the argument, we think, the arch-enemy, Sir John Shelley, himself would concede to us.

The next question is, From whence they would procure it? A license for selling game, granted by country magistrates, would, from their jealousy upon these subjects, be granted only to persons of some respectability and property. The purchase of game from unqualified persons would of course be guarded against by very heavy penalties, both personal and pecuniary; and these penalties would be inflicted, because opinion would go with them. ‘Here is a respectable tradesman,’ it would be said, ‘who might have bought as much game as he pleased in a lawful manner, but who, in order to increase his profits by buying it a little cheaper, has encouraged a poacher to steal it.’ Public opinion, therefore, would certainly be in favour of a very strong punishment; and a licensed vender of game, who exposed himself to these risks, would expose himself to the loss of liberty, property, character, and license. The persons interested to put a stop to such a practice, would not be the paid agents of Government, as in cases of smuggling; but all the gentlemen of the country, the customers of the tradesman for fish, poultry, or whatever else he dealt in, would have an interest in putting down the practice. In all probability, the practice would become disreputable, like the purchase of stolen poultry; and this would be a stronger barrier than the strongest laws. There would, of course, be some exceptions to this statement. A few shabby people would, for the chance of gaining sixpence, incur the risk of ruin and disgrace; but it is probable that the general practice would be otherwise.

For the same reasons, the consumers of game would rather give a little more for it to a licensed poulterer, than expose themselves to severe penalties by purchasing from poachers. The great mass of London consumers are supplied now, not from shabby people in whom they can have no confidence,—not from hawkers and porters, but from respectable tradesmen, in whose probity they have the most perfect confidence. Men will brave the law for pheasants, but not for sixpence or a shilling; and the law itself is much more difficult to be braved, when it allows pheasants to be bought at some price, than when it endeavours to render them utterly inaccessible to wealth. All the licensed salesmen too would have a direct interest in stopping the contraband trade of game. They would lose no character in doing so: their informations would be reasonable and respectable.

If all this is true, the poacher would have to compete with a great mass of game fairly and honestly poured into the market. He would be selling with a rope about his neck, to a person who bought with a rope about his neck; his description of customers would be much the same as the customers for stolen poultry, and his profits would be very materially abridged. At present, the poacher is in the same situation as the smuggler would be, if rum and brandy could not be purchased of any fair trader. The great check to the profits of the smuggler are, that, if you want his commodities, and will pay an higher price, you may have them elsewhere without risk or disgrace. But forbid the purchase of these luxuries at any price. Shut up the shop of the brandy-merchant,—and you render the trade of the smuggler of incalculable value. The object of the intended bill is, to raise up precisely the same competition to the trade of the poacher, by giving the public an opportunity of buying lawfully and honestly the tempting articles in which he now deals exclusively. Such an improvement would not, perhaps, altogether annihilate his trade; but it would in all probability act as a very material check upon it.

The predominant argument against all this is, that the existing prohibition against buying game, though partially violated, does deter many persons from coming into the market; that if this prohibition were removed, the demand for game would be increased, the legal supply would be insufficient, and the residue would, and must be, supplied by the poacher, whose trade would, for these reasons, be as lucrative and flourishing as before. But it is only a few years since the purchase of game has been made illegal: and the market does not appear to have been at all narrowed by the prohibition; not one head of game the less has been sold by the poulterers; and scarcely one single conviction

has taken place under that law. How, then, would the removal of the prohibition, and the alteration of the law, extend the market, and increase the demand, when the enactment of the prohibition has had no effect in narrowing it? But, if the demand increases, why not the legal supply also? Game is increased upon an estate, by feeding them in winter, by making some abatement to the tenants for guarding against depredations, by a large apparatus of gamekeepers and spies—in short, by expense. But if this pleasure of shooting, so natural to country gentlemen, is made to pay its own expenses, by sending superfluous game to market, more men, it is reasonable to suppose, will thus preserve and augment their game. The love of pleasure and amusement will produce, in the owners of game, that desire to multiply game, which the love of gain does in the farmer to multiply poultry. Many gentlemen of small fortune will remember, that they cannot enjoy to any extent this pleasure without this resource; that the legal sale of poultry will discountenance poaching; and they will open an account with the poulterer, not to get richer, but to enjoy a great pleasure without an expense, in which, upon other terms, they could not honourably and conscientiously indulge. If country gentlemen of moderate fortune will do this (and we think after a little time they will do it), game may be multiplied and legally supplied to any extent. Another keeper, and another bean-stack, will produce their proportional supply of pheasants. The only reason why the great lord has more game per acre than the little squire is, that he spends more money per acre to preserve it.

For these reasons, we think the experiment of legalizing the sale of game ought to be tried. The game laws have been carried to a pitch of oppression which is a disgrace to the country. The prisons are half filled with peasants, shut up for the irregular slaughter of rabbits and birds,—a sufficient reason for killing a weazle, but not for imprisoning a man. Something should be done; it is disgraceful to a Government to stand by, and see such enormous evils without interference. It is true, they are not connected with the struggles of party; but still, the happiness of the common people, whatever gentlemen may say, ought every now and then to be considered.

ART. III. *An Authentic Narrative of the extraordinary Cure performed by Prince Alexander Hohenlohe on Miss Barbara O'Connor, a Nun, in the Convent of New Hall, near Chelmsford; with a full Refutation of the numerous False Reports*

and Misrepresentations. By JOHN BADTIA, M.D., Protestant Physician to the Convent. Third Edition. London. Whittaker. 1823.

LORD BACON, in one of his Essays, after showing that superstition is more pernicious than scepticism, or even atheism, in its practical consequences, and more degrading to the Deity in the lessons which it inculcates, proceeds to set forth its causes, among which a prominent place is assigned to the ‘*Stratagemata Prælatorum. quibus utuntur ad ambitionem propriam et lucrum.*’* Those dignitaries, however, may be more philosophically considered as not unfrequently partaking of the delusion which they would propagate,—as the dupes, in some sort, of their own artifices, and uniting to a certain degree enthusiasm with hypocrisy, according to the sagacious observation of Mr Hume respecting the sectarian fanatics of the seventeenth century. To which of the two classes Prince Hohenlohe belongs, or in what proportions the ‘*enthusiast and dissembler mix in his deportment,*’ (as Bishop Burnet says of Cromwell), we shall not here inquire very curiously. Thus much is plain, that, even in the present enlightened age (so inveterate are men’s propensities towards the marvellous, and so eager their thirst for an intercourse with a higher world), a considerable class of persons are to be found ready to believe him possessed of supernatural powers: And although we have very little apprehension of this folly making any progress in these kingdoms, it becomes impossible wholly to pass it over, when we see such narratives as the one before us sent forth to the world under the sanction of a respectable name.

The case of Miss O’Connor is as follows. She is a nun in the convent near Chelmsford; and in December 1820, being about thirty years old, was suddenly attacked by a violent pain in the right hand, which extended, with much swelling and inflammation, up the arm. The whole limb became red and swollen, and was extremely painful, and entirely useless. Every remedy, both topical and directed to the system, was tried in vain for a year and a half. There was no suppuration, nor any formation of pus; but the malady continued obdurate, and yielded to no application. The resources of the flesh having

* In the same discourse we find what may have suggested, if it be not the original, of Mr Hume’s famous application of the *dessein* to the machinations of priestcraft. ‘*Introducitur (superstitio) novum primum mobile, quod omnes imperii sphæras rapit.*’ *Serm. xvii.*

thus manifestly failed, Mrs Gerard, the superior of the convent, betook herself, as became a discreet lady abbess, to those of the Spirit! She made a request, through a friend, to the Prince Hohenlohe, that he would be pleased to assist the patient in her extremity; and his High Reverence, (or Right Reverend Highness, we know not in which title he may delight), was graciously pleased to return the following answer, which Dr Badelly denominates Instructions, and manifestly regards as in the nature of a recipe or prescription. Far from us be the profane thought of translating so sacred a document; nor will we suffer the Doctor to render it for us; he being so moderately skilled in the French tongue as to fancy, that '*La religieuse novice*,' means '*Religious nun*.'

'POUR LA RELIGIEUSE NOVICE EN ANGLETERRE.

'Lo trois du Mois de Mai, à huit heures, je dirai, conformément à votre demande, pour votre guérison mes prières. Joignez-y à la même heure, après avoir confessé et communiqué, les vôtres, avec cette ferveur évangélique, et cette confiance plénière que nous devons à notre Rédempteur Jesus Christ. Excitez au fond de votre cœur les vertus divines d'un vrai repentir, d'un amour Chrétien, d'une croyance sans bornes d'être exaucé, et d'une résolution inébranlable de mener une vie exemplaire, a fin de vous maintenir en état de grace. Agréez l'assurance de ma consideration.
'*Bamberg, Mars 16, 1822.* PRINCE ALEXANDER HOHENLOHE.'

Dr Badelly saw the patient accidentally on the 2d of May, and found the hand and arm as much swollen, and as bad as he had ever seen them. The fingers, he says, were ready to burst, and the wrist was fifteen inches in circumference. He had not then heard of the appeal that had been made to a higher authority than the Royal College, nor that the following day was the time appointed by the Germanic performer for praying the obstinate limb down to its natural size. 'On that day,' adds the Doctor, 'the 3d of May (a day of particular notice by the Catholics), she went through the religious process prescribed by the Prince. Mass being nearly ended, Miss O'Connor, not finding the immediate relief she expected, exclaimed, "Thy will be done, oh Lord! thou hast not thought me worthy of this cure." Almost immediately after, she felt an extraordinary sensation through the whole arm, to the ends of her fingers. The pain instantly left her, and the swelling gradually subsided; but it was some weeks before the hand resumed its natural size and shape. Now, I can perceive no difference from the other. The general reports, that the arm was paralytic, and that both hand and arm were again as bad as ever, have not the least foundation.' pp. 15, 16.

In another part of his Tract, our author says, that he '*personally attests*, that the recovery of Miss O'Connor *immediately succeeded* the instructions of Prince Hohenlohe.' He adds, that he leaves the explanation to the religious principles of those who interest themselves in it. With his permission, there is a little to be done before we come to explanations; and that is, to settle the state of *the fact* somewhat more clearly. What will the reader think of this gentleman's caution and accuracy, when he finds that his '*personal attestation*' means his report of what he heard in the Convent, he having been himself absent from the 2d to the 11th of May, (p. 19), and the facts in question having happened on or immediately after the 3d! The whole matter in dispute depends upon the time at which the cure took place; and supposing the Doctor's observation to have been correct on the 2d (which we can have little confidence in, after so strange a sample of his loose manner of reasoning), there is no ground for ascribing the cure to the prayers, except the coincidence in point of time of the two events;—and that coincidence rests on hearsay, and the hearsay of a nunnery! The amendment may have been begun before the 2d, and made great progress during the week that followed; or it may have been begun as late as the 5th or 6th, and gone on rapidly till the 11th. The fact of the cure '*immediately succeeding*' the Prince Impostor's prescription, does *not* rest therefore on the Doctor's '*personal attestation*,' but on the gossip of the convent parlour.

If Dr Badelly's facts are of most suspicious accuracy, his reasonings are somewhat more confused and unsatisfactory still. At one time he ascribes the cure, which he never once thinks of doubting, to the influence of the mind over the body, and therewithal sets down some half dozen instances to illustrate this trite position; as, of gout being removed from a naval officer, 'by the pleasing agitation of a French frigate approaching;' and a lady, pining away, and dying from grief, for the absence of her husband. Is it, then, to the nun's imagination that she owed the cure of her right arm, afflicted for eighteen months with extreme swelling and inflammation! No such thing. On the contrary, she imagined at first that she was *not* to be cured; and the miracle was wrought, it appears, rather to shame her unbelief than to reward her undoubting faith. Dr B., indeed, can see no difference between the prayers used by Prince Hohenlohe and those which all Christians put up, except that the cures prayed for by him are more immediate; those prayed for by others more gradual. 'It must ever remain a secret, known only to the Supreme Being, whether he grants a recovery to the prayer *specifically*, without intermediat

'means, or whether he effects it by the mind actuating the *vis medicatrix naturæ* through faith and confidence.' pp. 21, 22. He therefore clearly ascribes the efficacy of the Prince's operations, in part at least, to a miracle; though he will not decide whether Providence works the miracle at once and directly, or by second causes. The following passage is a singular specimen of this good Doctor's reasoning powers; and we trust his suit to the clergy will not be thrown away. It is at least disinterested; it is asking them to make the medical profession a sinecure.

'From the numerous cases that are published in France and Germany, many, we have no right to doubt that the prayers of the Prince have been more successful than the prayers of others; probably owing to the greater faith and confidence which their celebrity had occasioned. This success and celebrity will, doubtless, continue reciprocally to increase each other; because, united, they will double the confidence and faith that will be placed in them. The prayers of our clergy would, no doubt, be attended with equal success in restoring health, and prolonging life, if the minds of the sick were impressed with the same degree of firm belief, that the prayers then offering would effect their recovery; but our clergy confine their visits to the paramount duty of preparing them for their departure from this to a better world.' pp. 22, 23.

Only mark the mistake under which the clergy in all countries have laboured! They ought to have bestirred themselves to keep their flocks safe and sound in this world, instead of preparing them for another. But it seems, the prayers of the church are not the only specific for bodily ailments, nor are Prince Bishops the only substitutes for Doctors of Physic. So inveterate is our author's antipathy to his own cloth, that he sets up a worthy landscape-painter, the late Mr Louthembourg, as a worker of cures or miracles; and without even the trouble of an incantation; for he seems to have done the thing by a look and a word. Accordingly, he inserts a narrative from a 'very respectable clergyman,' who had a tenant afflicted grievously with pains and swellings in the loins, so that he could not walk across the room. He took him in a coach to Mr Louthembourg's at Hammersmith, who entered the room, and, without any kind of preliminary explanation, without even asking a question, 'looked stedfastly' at the former, and said, 'I know your complaint, Sir;—look at me.' The man did so. After staring at each other for some minutes, Mr. L. asked if he did not feel some warmth about his loins; and, on being answered in the affirmative, added, 'You will feel, in a few minutes, much greater warmth about your loins.' This, too, happened; and the artist, continuing his intense look, demanded how his subject came there? 'In a coach, Sir'—was the artless reply. 'Then go and discharge your coach, and walk

back to Tenterden Street with Mr R.' 'The coach was discharged' (says the reverend historian, and, we presume, the reckoning also, though this is not mentioned), 'and back to Tenterden Street we walked, a distance of not less than four miles.' The narrator declines to allow Dr Badelly the use of his name; but far be it from us to insinuate, that he is 'running the base humour on him.' He is probably a grave personage; for there are no bounds to human credulity; and, if a long chapter is easily made of cases where the imagination affects patients, how many long volumes might be compiled of instances, where the imagination bewilders witnesses!

It would be unjust toward this wonder-working Prince, were we to omit all mention of the exploits which have succeeded that performed on the Chelmsford Nun. His fame having waxed great both on the Continent and among the zealous in these Islands, he appears to have been much importuned for the aid of his prayers. Accordingly, he complains, in a rescript to one of the faithful, that he had, on an average, fifty letters a day—a tax in postage equal, we should imagine, to the revenues of an ordinary German principality, unsupported by supernatural *aids*; and he adds, in answer to one application, that he had, in consequence, fallen on the ingenious device of working miracles in the gross, by whole districts, or, as he phrases it, 'adopting a *system* of offering his prayers for the relief of particular districts, on particular days.' In pursuance of this plan, his truly Serene Highness appointed the 1st of August, at seven o'clock *a. m.*, for curing all the diseased in Ireland by word of mouth; and as he is pleased, somewhat superfluously we think, to ask the cooperation of the persons prayed for, he gave a general notice to all the religious communities of that Island of Saints, in order that, in each one, a mass might be performed at the same moment in which he was working for their relief at Bamberg; and he seems to have graciously given a second benefit to the same part of the Christian world, on the 1st of September, in order, as it were, to take in such as were left out on the former day, owing, doubtless to the crowd of cures. Since these great field-days, there have been repeated statements of the effects produced; but we can find no distinct accounts, except of three cases, and those all of females—Mrs Stuart and Miss Lala on the first occasion, and Miss Dowell on the last. Far be it from us to speak with unbecoming confidence on so nice a matter; there may have been other wonders wrought; but these three are all that have yet reached us in this sceptical and anti-catholic land.

That the priesthood should take up the subject, was a matter of course. They waited, however, a few weeks, and then entered

stoutly into a theme which appeared so promising. The Roman Catholic Archbishop of Dublin led the way with a pastoral letter to the clergy and laity of his diocese, in which he informs his 'beloved brethren in Christ Jesus,' that a 'delightful duty has devolved upon him;' and proceeds to relate the cure of Mrs Stuart, 'his heart being at once struck with awe, and inflamed with gratitude.' His Grace shall, however, tell his own story, or rather the story of the Convent of St Joseph, Ranelagh; for he is not himself the witness, but only the believer and propagator of the tale, after what he deemed a full investigation of its truth.

'The account of this wonderful cure reached us officially on the 2d instant, in a letter from the Prioress. This communication stated, in substance, that one of the religious sisters of that community, by name Mary Stuart, had been afflicted with sickness for four years and seven months; that during that period she had frequent attacks of paralysis, each of which seemed to threaten her with immediate dissolution; that the most powerful remedies had been applied, without producing any other than partial and temporary relief; that for several months past she had been confined to her bed, wholly deprived of the power of assisting herself, or of moving out of the position in which she was laid; that when moved by her attendants, how gently soever, she not only suffered much pain, but was also liable to great danger, and to the temporary loss of speech, and that, for the last five weeks, she had lost the power of articulation; that up to the morning of the 1st instant, she continued in this deplorable state, without any symptom of amendment, and apparently beyond the reach of human aid; that on a certain hour that morning, as had been settled by previous arrangement, she united her devotion (as did also her numerous friends) with the holy sacrifice of the mass, which was to be offered by Alexander, Prince of Hohenlohe, in the hope of obtaining immediately from God that relief which no human means could afford; that with this view she received, though with much difficulty, the divine communion at the mass, which was celebrated at the same hour in her chamber, for her recovery; that mass being ended, and no cure as yet effected, she was in the act of resigning herself, with perfect submission, to the will of God, when instantly she felt a power of a movement and a capability of speech; that she exclaimed, with an animated voice—"Holy, holy, holy, Lord God of Hosts!"—raised herself, without assistance, to offer, on bended knees, the tribute of her gratitude to heaven—called for her attire—left that bed to which she had been for so many months, as it were, fastened—walked to the Convent chapel with a firm step—and there, in the presence of the community and congregation, joined her religious sisters in the solemn thanksgiving which was offered up to God for this wonderful interposition of his goodness.

'As soon as this statement reached us, we felt it a sacred duty to examine the grounds on which it was made. We hastened,

therefore, to the spot, to investigate the circumstances of this astonishing cure. We found the late invalid seated in the parlour, surrounded by her friends; she arose, she knelt, she resumed her seat, she detailed the history of her sufferings and her cure, as they have been just related. Her companions and attendants, who had assisted her in her infirmity, and watched so long over her bed of languishing, confirmed this account in all its details, which could not fail, even then, to produce on our mind the clearest conviction that the restoration of the said Mary Stuart to the state of health in which we saw her, was beyond the reach of human power.

‘ Still, aware of the great responsibility which we should incur, by pledging ourselves to you, beloved brethren, and to the world, for the existence of a fact so truly wonderful, we paused before we should give public utterance to our private conviction on so important a subject. We returned to the Convent, after an interval of several days; we subjected all the circumstances of this extraordinary case to a new and rigid inquiry; we collected information on the spot, from every source within our reach; we weighed it in the presence of the God of Truth; we called into our aid the wisdom and intelligence of our reverend brethren, the Roman Catholic clergy of this city, and we have the consolation of knowing that our judgment is supported by their unanimous opinion, when we declare, as we do hereby declare, on what appears to us the most unquestionable evidence, that the cure which was effected in the person of the said Mary Stuart, on the 1st of August instant, is the effect of a supernatural agency—an effect which we cannot contemplate without feeling, in our inmost soul, an irresistible conviction that “this is the finger of God.” ’

The cure of Miss Dowell may be added to this; it happened on the 1st of September, and, though not related by the Prelate, rests exactly on the same kind of evidence which made him adopt the current story, namely, the reports of the family.

‘ Miss Dowell, of Merrion-square, a lady of fortune, and whose connexions are of the first respectability, had, during the last four years, suffered under a complication of infirmities; to alleviate which, the most eminent professional advice was resorted to in vain. A gradual paralysis appears to have totally deprived her for the last twelve months of the power of motion. During this long period, she is stated to have been altogether confined to bed; and every attempt of her attendants to assist her was productive of internal spasms of the most excruciating nature, followed by a state of languor so closely resembling death, that on one occasion she was believed to have actually ceased to live. The distinguished members of the Faculty in attendance upon this lady, are understood to have for some time avowed to her parents, their despair of ultimate cure, and to have directed their exertions merely to the soothing of her sufferings. Under these circumstances, application was specially made, through a high quarter, to Prince Flohenlohe; and the lady was directed to

cooperate with his Highness in prayer on the 1st of September, on which day he had signified his intention of celebrating mass, for the purpose previously stated.

Arrangements to this effect were in consequence made; and on the morning of yesterday, at the hour pointed out by Prince Hohenlohe, Mass was celebrated in the lady's chamber, at which ten persons assisted. After the *de Profundis*, the clergyman (the reverend Richard Henry, of Arran-quay Chapel) approached the patient, who had received the Holy Communion, but who had yet shown no symptoms of recovery, and asking her how she found herself, desired her to arise. At the instant, and apparently herself unconscious of the return of her strength, she gradually arose, stood erect in the bed, and with a voice and countenance beaming with gratitude and joy, declared that she felt completely restored, and that she would accompany her friends to the parlour. This she did; her principal attendant, Mr Crampton, who had visited her on each of the two preceding days, and witnessed her unmitigated suffering, was sent for that he might be an early witness of the surprising event. Mr Crampton on his arrival, proceeded up stairs, towards the lady's chamber, when he was recalled by the young lady's mother, and entering the parlour, was thunderstruck at being saluted by his patient in person, who stood up to receive and salute him. "This," exclaimed that distinguished practitioner, "surely beats out Hohenlohe." "You will, doctor, be much astonished to learn, that it is to Prince Hohenlohe that I attribute my daughter's recovery," was the parent's reply, who immediately acquainted Mr C. with the particulars. "Madam," rejoined Mr C., "this is, indeed, wonderful." Although, as may be easily supposed, the young lady is extremely emaciated, she now experiences no weakness whatever; on the contrary, her confidence in her strength, and in the permanence of her cure was so great, that she insisted on going to public prayers to return thanks to Him, of whom, "if you ask any thing in Jesus's name, he will give it to you."

We have deemed it fair to the wonder-mongers, of whatever description, to insert the details of the two cases on which they chiefly rely; and, without entering into any lengthened argument upon the subject, we would remark, that all these instances are of cures performed in private; and that no person of known credit has come forward to vouch for the particulars, except as the repeater of hearsay reports. The chief conjuror at Bamberg, performed his incantations not merely for Mary Stuart, and Miss Dowell, and Miss Lala, on the 1st of August, and 1st of September, but for all the infirm who should join him at seven in the morning on those two days, within that part of the United Kingdom called Ireland; and yet, of the many congregations which assembled, and the sick thousands who joined in the ceremonies of the occasion, nothing is recorded to have happened in publick; but three females in private circles are said

to have been benefitted by the *hocus-pocus* work that went on. The following admission to this effect comes from a stout Catholic, who suggests, in the sequel of his epistle, that probably the failure arose from *the individual names* of the afflicted not having been laid distinctly before the wonder-worker at Bamberg! It seems that, for the sake of greater solemnity, a *Novena*, a nine running days service, was performed in many of the chapels and private houses, and was to terminate on the morning of the 1st of September, at the hour prefixed by the instructions from head-quarters in Germany. These preparatory operations were attended, we are told, by anxious and devout crowds of believers, including many afflicted persons; and we conceive, from the total absence of contrary statements respecting the event at other places, that the following account of the result at one meeting, pretty accurately describes the general course of the proceeding on the great day so much looked for by the faithful.

‘ I attended the Novena in the Chapel of George’s hill Nunnery, which, from the commencement to its termination, was conducted by the reverend Mr Maher, in the most edifying manner. On Monday morning he recited the Rosary of Jesus, and other prayers that corresponded with the devotions recommended by the Prince, with the greatest fervour, preparatory to his ascending the Altar to offer the ever-adorable sacrifice. The Chapel was crowded with infirmity in all its varied shape; and if ever Mass was heard with devotion, it was on that morning—if ever hundreds of Communicants presented themselves at the table of the Lord, it was on that occasion—if ever expectation outstretched itself, it was on George’s hill on that morning. If a crutch fell, anxiety to know the cause was visible in every countenance—if imagination could perform the wonders lately attributed to it by those who, for several reasons that could be assigned, do not choose to acknowledge the finger of Omnipotence in the prodigies of the present day, never were its powers more vigorous—and yet the lame man was obliged to call for the crutch, and the blind man for his guide, to conduct him out of the sacred temple! If the sacerdotal robes were but covers for the legerdmain and craft with which ignorance and malevolence have asspersed the sacred character of the priest, never did a better opportunity present itself for the practice of the art. That would have been the moment to kill a living tailor by an attempt to raise a pretendedly dead one to life! But the reverend Mr Maher was so unskilled in the imputed trade, that he went forward and told the people, that “nothing had occurred.” ’

It must be admitted, that nothing can be more decisive upon this subject, nor tend more to multiply ‘the cavils of sceptics’ which the Archbishop of Dublin anticipates, than the fact, that there are no miracles wrought in publick by his Highness the Reverend Prince. We fear, that as long as he only holds par-

ticular intercourse in corners, with Lady Abbesses, sick-nurses, or spinsters living in the bosom of zealous families, we shall not be found among the number of those whom his Grace expects to be 'stricken on the ear and the heart by the voice of facts issuing from the sanctuary, and publishing the glory of God with the loudness of thunder.' Still less are we likely to be found among those 'dear brethren wandering from the "one fold," and conducted back to venerate that Holy Mass, of which the hand of the Omnipotent has attested the sanctity,' so that as far as the bulk of men are concerned, little glory will redound to God and his church' from such suspicious miracles as these. Nay more, we will venture to assert, that there is not one rational Catholick, who, in his cooler moments, does not lament the attempt now making to palm such gross impositions upon the world. Were these efforts successful, indeed a grievous consequence would ensue. The breach between the conflicting sects would be widened, through that worst kind of alienation which is engendered by just pity in the one party, for the weakness of the other, mingled, perhaps, with contempt for the trickery of which that weakness becomes the easy prey.

We cannot close these remarks and details, without taking notice of a singular incident in the course of the controversy to which the alleged miracles have given rise. Observing that the Catholicks were making some way by means of the marvellous, the High Protestant party must needs fight their enemies at their own weapons;—and, accordingly, we have *Orange miracles* to meet those of Bamberg! The following is extracted from a letter, addressed to a noted *Orange Journal*, and signed by the well-known name of '*V'critas*,' a subscription which always puts the experienced reader of such communications in an especial manner on his guard.

'I pledge you the word and honour of an Orangeman, that the following facts occurred yesterday evening:—A party of five gentlemen dined with me, and after dinner a vase, containing some orange lilies, was placed by my servants on the table, by my directions. We drank several toasts; and on the Glorious and Immortal Memory being given, an unblown lily, which the party were remarking, expanded its leaves, and appeared before us in all its splendour. Our astonishment never was so far excited before, as at this (I may call it) phenomenon. Should you for one moment doubt the assertions I now make, I will take an affidavit of the fact, and have it further corroborated by the gentlemen who were present, and who are ready to come forward to verify it.'

The Editor gives this as coming from a known and highly respectable correspondent.

It is with much compassion towards the ignorant, and with great allowances even for the temporary hallucinations of the well-informed, that we read such stories of popular delusion as have now been occupying our attention. The proneness of human nature to look out of this world, and beyond this life, is one of its strongest propensities, and one most connected with the better parts of its composition. There is thus a tendency to cling by every thing that, partaking of the marvellous and supernatural, seems to furnish a more direct and precise proof of Divine agency than the lights of reason afford, and a more lively and present evidence than older revelations can supply. Dr Johnson, who, with all his vehement dogmatism of speech, was plainly much affected with doubts in his belief, indulged far more in such speculations, and lent a far more ready ear to ghost-stories, than seems consistent with his natural strength of understanding, or than he would have done had he reasoned on such subjects without any bias from his wishes and his fears. On one occasion he betrayed the motive of all his anxiety that such things should be found true. Speaking of Lord Lyttleton's vision (now known to be a mere fiction), he characterized it as 'the most extraordinary thing which had happened in his day;' and added, 'I am so glad to have every evidence of the spiritual world, that I am willing to believe it.' His pious and amiable friend Dr Adams said, 'You have evidence enough; good evidence, which needs not such support;' but the sagacious moralist answered, '*I like to have more.*'—(*Boswell's Life*, iv. 320.) Such are the feelings which prepare even the wise and the learned for credulity. But it is not to those feelings, in this higher class of persons, that the Doctors of Bamberg and Dublin address themselves. They seek the easy faith of the vulgar, and they pursue their own objects by inventing or propagating fictions worthy of a darker age. For the sectarian prelates there may be the excuse that they have themselves been duped, and in the state of oppression which they and their tenets suffer, they are fain to attempt whatever may augment their influence and strengthen their means of self-defence. But for the German Prince, what excuse shall be urged? Can he be ignorant of the truth? Can he really believe himself gifted with supernatural powers? Making every allowance for the natural intermixture of enthusiasm with hypocrisy, can he really be, and in these times, like some of the wretched creatures who, some centuries ago, suffered themselves to be put to death for dealing with spirits, avowing that they knew they had held this intercourse, in the very face of torture and the stake? It is

barely possible; but certainly few things can be less likely than such an explanation; while it is the only conceivable means of avoiding the inference which would stamp him as the very chiefest of impostors.

Happily there is little chance of the deception producing any effect. The days are past and gone when prodigies could be safely imposed upon whole nations, for the benefit of a prince or a priest, and the ignorant people be beguiled of their reason, that they might be the more expeditiously cozened of their rights and their possessions. The general improvement of men's minds is a sufficient guarantee against such tricks; but there is another in the direct and constant operation of that mighty engine of instruction to which, above all others, their general improvement must be ascribed. The rapid conveyance of intelligence, as well as the easy communication of discussion through the press—and, above all, the periodical press—renders the most wonderful accidents, and the best contrived plots, alike harmless in alarming or in deceiving the mass of mankind, even of the least enlightened. Natural occurrences or incidents, which in the days even of Livy would have astonished the vulgar, and figured in the page of history as prodigies, are now so speedily made known among those who can scientifically explain them, or who are acquainted with the precise fact which accounts for them, that no wonder can ever last long enough to serve the purposes of imposture. And the planners of holy artifices for the furtherance of their own designs, instead of laying the foundations of their success by secretly making some progress among the weak and ignorant, before they are exposed to the light of science and the conflict of reason, must, from the very first, carry on their operations in the glare of day, and under the pressure of attacks from a thousand adversaries. To rear up a false religion, then, has become absolutely impossible; to advance an usurper would be almost equally hopeless. These are the fruits of free discussion—and, above all, an unfettered daily press. Let us add its equally legitimate produce, the publicity which it gives to Laws: the force with which it arms them, and the obstacles which it opposes to evading them, by making all men present in all courts of justice, and of police—and we shall be able to estimate how deeply indebted the Religion, the Government, the Justice of the country, are to the Periodical Press for their security. Now, this is that very Press, which the Throne, the Altar, and the Bench, are but too often found to unite in reviling as their common enemy. It may have its failings, no doubt—and there may be those who have a right to feel and to expose them. But of the number assuredly they are not, who have any peculiar interest in the stability of the Law, the Government, and the Religion of the State.

ART. IV. *The Select Melodies of Scotland, interspersed with those of Ireland and Wales, &c.* By GEORGE THOMSON, F. A. S. Edinburgh. 5 vols. royal 8vo. 1822.

THOUGH we may seem to have too great a predilection for questions of government and legislation, to care much about any thing else, we can assure our readers that we are very frequently glad enough to escape from these thorny and contentious topics, into the soothing and enchanted regions of Poetry, Music, and Romance. It was in such a mood that we happened lately to take up the work before us—and, after dwelling on it longer than we now care to mention, feel that we have acquired a right to recommend it as ‘an oblivious antidote’ to weary and ruffled spirits, and minds harassed with fatigues or cares of a public or private kind. Our Songs and Ballads, besides, form so considerable, so beautiful, and so peculiarly *national* a part of our literature, that we feel them to be deserving of a much more ample discussion than we can now afford to bestow on them. We shall, however, throw together a few of the remarks which have been suggested by the perusal of Mr Thomson’s work; and shall probably take another opportunity of going more deeply into the subject.

The *Songs* of every nation must always be the most familiar and truly popular part of its poetry. They are uniformly the first fruits of the fancy and feeling of rude societies; and, even in the most civilized times, are the *only* poetry of the great body of the people. Their influence, therefore, upon the character of a country, has been universally felt and acknowledged. Among rude tribes, it is evident that their songs must, at first, take their tone from the prevailing character of the people. But, even among them, it is to be observed, that, though generally expressive of the fiercest passions, they yet represent them with some tincture of generosity and good feeling, and may be regarded as the first lessons and memorials of savage virtue. An Indian warrior, at the stake of torture, exults, in wild numbers, over the enemies who have fallen by his tomahawk, and rejoices in the anticipated vengeance of his tribe: But it is chiefly by giving expression to the loftiest sentiments of invincible courage and fortitude, that he seeks to support himself in the midst of his torments. ‘I am brave and intrepid!’ he exclaims,—‘I do not fear death, nor any kind of torture! He who fears them is a coward—he is less than a woman. Death is nothing to him who has courage!’ As it is thus the very best parts of their actual character that are

dwelt upon even in the barbarous songs of savages, these songs must contribute essentially to the progress of refinement, by fostering and cherishing every germ of good feeling that is successively developed during the advancement of society. When selfishness begins to give way to generosity,—when mere animal courage is in some degree ennobled by feelings of patriotic self-devotion,—and, above all, when sensual appetite begins to be purified into love,—it is then that the popular songs, by acquiring a higher character themselves, come to produce a still more powerful reaction upon the character of the people. These songs, produced by the most highly gifted of the tribe,—by those who feel most strongly, and express their feelings most happily,—convey ideas of greater elevation and refinement than are as yet familiar, but not so far removed from the ordinary habits of thinking as to be unintelligible. The hero, who devotes himself to death for the safety of his country, with a firmness as yet almost without example in the actual history of the race,—and the lover, who follows his mistress through every danger, and perhaps dies for her sake,—become objects on which every one delights to dwell, and models which the braver and nobler spirits are thus incited to emulate. The songs of rude nations, accordingly, and those in which they take most pleasure, are filled with the most romantic instances of courage, fidelity, and generosity; and it cannot be supposed, that such delightful and elevating pictures of human nature can be constantly before the eyes of any people, without producing a great effect on their character.

The same considerations are applicable to the effects of popular ballads upon the most numerous classes of society, even in civilized nations. They, like the inhabitants of rude countries, have little but their songs to carry their fancy or their feelings beyond the dull realities of life; and these strains thus occupy much of their attention, and have a proportionate effect upon their minds. They constitute, therefore, a powerful engine either for good or ill. We can still remember their effect, at the beginning of the French Revolution, in working up the passions of the populace to phrenzy and madness. While indulging in the most horrible excesses, they rent the air with the '*Ca ira*,' or the '*Carmagnole*;'—and there cannot be a doubt, that the bloody and ferocious strain of the songs that were put into their mouths, had no inconsiderable share in the most strange and sudden transformation in the character of a whole nation, that ever was heard of in the history of the world. A very opposite instance of the effect of song-writing is to be found in the works of Dibdin, whose inimitable sea-songs have

become, as it were, naturalized in the British Navy. By seizing, with exquisite skill, the finest parts of what we may call the national character of our sailors,—their courage, generosity, and simplicity of heart,—and embodying these in songs, wonderfully adapted, both to their tastes and those of more refined auditors, he succeeded in impressing on their minds such an admirable *beau idéal* of a British seaman, that it became, in no small degree, their endeavour to attain a resemblance to it. Dibdin was the Tyrtæus of modern times, and, like the Grecian Bard, well deserved the gratitude of his country.

The popular songs of Scotland have long maintained a very high rank among national poetry, and have contributed greatly to produce some peculiar features in the character of the people. On this subject we gladly avail ourselves of the acute and elegant observations of Dr Currie. * ‘ The impression which the Scottish Music has made on the people, is deepened by its union with the national songs. These songs, like those of other nations, are many of them humorous, but they chiefly treat of love, war, and drinking. Love is the subject of the greater proportion. Without displaying the higher powers of the imagination, they exhibit a perfect knowledge of the human heart, and breathe a spirit of affection, and sometimes a delicate and romantic tenderness, not to be surpassed in modern poetry, and which the more polished strains of antiquity have seldom possessed. The origin of this amatory character in the rustic Muse of Scotland, as of the greater number of these love-songs themselves, it would be difficult to trace. Their present influence on the character of the nation is, however, great and striking. To them we must attribute, in a great measure, the romantic character which so often distinguishes the attachments of the humblest of the people of Scotland, to a degree that, if we mistake not, is seldom found in the same rank of society in other countries. The pictures of love and happiness exhibited in their rural songs, are early impressed on the mind of the peasant, and are rendered more attractive from the music with which they are united. They associate themselves with his own youthful emotions; they elevate the object, as well as the nature of the attachment; and give to the impressions of sense the beautiful colours of imagination. Hence, in the course of his passion, a Scottish peasant often exerts a spirit of adventure of which a Spanish cavalier need not be ashamed. After the labours of the day are over, he sets out for the habitation of his mistress, per-

‘happas at many miles distance, regardless of the length or the dreariness of the way. He approaches her in secrecy, under the disguise of night. A signal at the door or window, perhaps agreed on, and understood by none but her, gives information of his arrival, and sometimes it is repeated again and again, before the capricious fair-one will obey the summons. But if she favour his addresses, she escapes unobserved, and receives the vows of her lover under the gloom of twilight, or the deeper shades of night. Interviews of this kind are the subjects of many of the Scottish songs, some of the most beautiful of which Burns has imitated or improved. In the art which they celebrate he was perfectly skilled: he knew and had practised all its mysteries. Intercourse of this kind is, indeed, universal, even in the humblest condition of man, in every region of the earth. But it is not unnatural to suppose, that it may exist in a greater degree, and in a more romantic form, among a peasantry who are supposed to be more than commonly instructed, who find in their rural songs expression for their youthful emotions, and in whom the embers of passion are continually fanned, by the breathings of a music full of tenderness and sensibility.’

The effects of this, or indeed of any other kind of poetry, upon the character and manners of the higher classes of society, must necessarily be less considerable. Independently of the effect of a more regular education, and a more careful cultivation of the moral and intellectual faculties, it may be remarked, that songs are only one of many kinds of fictitious composition from which the higher classes derive amusement. But, on the other hand, of all those means of amusement, songs probably exercise the strongest influence on the minds of the greatest number. We go occasionally to see a play, and we sit down occasionally to read a poem. But the pleasures of music and song form a habitual part of our gayest and happiest hours, when our hearts are most open to receive impressions, and at a time of life when the nature of these impressions are most important to us. The very act of singing a song ourselves, or the circumstance of hearing it from the lips of one whom we love and value, gives an additional power to the sentiments which it conveys, by making them, as it were, our own. It is of no small importance, therefore, that our fashionable, as well as our popular songs, should be free from any tendency to mischief. A great deal of the lyric poetry of the present day, we fear, is doing an injury which its authors will never be able to atone for. It is not gross or indecent, indeed, but something worse—loose, voluptuous, and seductive,—covered with a slen-

der veil of sentiment and refinement, just sufficient to procure its admission into polished society, but certainly far from sufficient to take away its power of corruption. To see a young and innocent girl, in the midst of an applauding drawing-room, singing with unconscious simplicity certain sweet and pathetic verses, the true meaning of which, if plainly spoken out, must drive her in confusion from the room, is a spectacle now nearly as common as it is lamentable. That the fair singer can long continue to read these eloquent lessons of a licentious morality, without in any degree understanding them, or ultimately suffering from their contagion, is hardly to be expected. The present taste is not for poetry, like the 'song by a person of quality.' Sound without sense, will no longer do, even to be warbled. To please a modern audience, a song must be full of meaning; and it is because the songs to which we have alluded *are* full of meaning, and generally of more meanings than one, that they are so popular. The songs of Burns, in this respect, possess a very different character. They are often full of ardent and overwhelming passion; but they never tend to unsettle the principles of the young, by throwing down the barriers between vice and virtue. They may be sung by the purest without a blush, and listened to by the most innocent without danger.

It is well known, that it was on the suggestion of the Editor of the work before us, that Burns engaged in the composition of those exquisite lyrics, which now constitute the noblest monument to his memory. When Mr Thomson undertook the great national work, of which the subject of this article appears to be a condensed republication, he fortunately obtained the cooperation of Burns, when in the zenith of his short but glorious career; and, during the few remaining years of the poet's life, he continued, with unwearied zeal, to enrich Mr Thomson's work with the most beautiful productions of his Muse. This invaluable assistance, as is well known, was given gratuitously. Burns was induced at first to undertake the task, and afterwards steadily to perform it, by the strong enthusiasm awakened in his ardent mind, by the idea of contributing to raise so noble a monument to the music and song of his country: And this feeling led him to reject, positively, and even indignantly, Mr Thomson's repeated offers of pecuniary recompense. One cannot but admire that loftiness of spirit which prompted the poet, even when in poverty and distress, to refuse the well-earned reward of his labours; but in this, as in some other respects, he appears to have entertained mistaken notions of independence. Every man is entitled to turn to his fair advantage the talents with which he is gifted; and he who enlightens the

world by his intellect, or delights it by his genius, ought, in return, to receive the means of living, in ease and honour, in that society to whose welfare or happiness he contributes. But peace to the memory of Burns! His errors were those of the head, not of the heart. He was early thrown upon the dark and troubled sea of human life, and left to steer his course without protection or guidance, and without ever having learned how to avoid, or even discern, the rocks and quicksands upon which he was driven, at every instant, by his strong feelings and impetuous passions. Though, however, his imprudence blighted his prospects, and even brought him to an untimely grave, yet he never forgot the dignity of his nature, or was guilty of a degrading or dishonourable action. Though 'thoughtless folly laid him low,' yet nothing but the excessive bitterness of self-reproach could have made him say that it had 'stained his name.' Death and time have long since effaced to every generous eye any stain that his irregularities might have gathered around it; and the errors of his ardent temperament, soaring fancy and proud heart, show like virtues, when contrasted with the low venality and interested servility that have so often degraded the genius of modern times.

When Burns began the task he had undertaken for Mr Thomson, they were aware of the necessity of furnishing a great proportion of the Scottish airs with new poetry. Many of the old verses, particularly the very old ones, were excellent,—containing not only simple and natural expressions of feeling, but admirable delineations of rustic character and manners. But still a great number of the older songs were so debased by grossness and vulgarity, as to be quite unfit for the use of a refined age; and several of them were strangely unsuitable to the character of the airs to which they were sung;—grotesque and humorous words being frequently joined to plaintive and tender melodies. The air of the old song, 'Fee him, father, fee him,' for instance, is now joined to one of the most pathetic effusions of Burns; the poet (as he himself informs us) having discovered the true expression of this fine strain from listening to it as performed by a musician on the oboe. It seems difficult to account for this incongruity between national airs and their original poetry, if, indeed, these old verses were the original ones, which, after all, may not have been the case; but the same thing appears to have existed, in an equal degree, among the Irish songs, to many of which Moore has given verses of a character totally different from that of the popular songs to which they were formerly united. Of the more modern songs, a number were composed in that affected and artificial style which was

then beginning to be tiresome, and has now become altogether unsufferable. We can no longer listen with patience to ditties about Corydon and Amynta, and shepherds with their crooks treading Arcadian plains; and we are inclined to think, that too many of these namby-pamby lyrics have still been allowed to remain. But reformation in matters of taste, as in other things, is progressive. Even the reformers themselves cannot shake off the many associations which obscure their judgments. Some of the songs, about the silliness and insipidity of which there cannot now be two opinions, were not only in such general vogue as to be absolutely *inevitable*, but were even admired by Burns himself. On this account, a few of our very finest airs are still united to verses unworthy of them, and destitute of that high tone of passion which was introduced by Burns, and now characterises the great body of our lyric poetry.

Besides the best specimens of the older Scottish poetry, and almost the whole of the songs of Burns, this work contains a great number of original compositions by the most celebrated poets of the present day, many of which are exceedingly beautiful; and the work has thus acquired a high degree of value in a literary point of view, independently of its value as a musical publication.

In the musical department of the work, Pleyel, Kozeluch,—afterwards the immortal Haydn, and lastly Beethoven, the greatest of living composers, and not inferior to the greatest of those who are gone, were employed to compose symphonies and accompaniments to the melodies. Some ridicule has been attempted to be thrown upon the employment of foreign composers to set accompaniments to Scottish airs. But the greatest and most consummate musician of any country is undoubtedly the fittest person to execute any musical task. To such a man, every combination of musical sound, whether it be the most profound elaboration of harmony, or the simplest national air, is equally familiar. He sees at a glance the character, expression, and *capabilities* of every air that can be presented to him, while he is able to heighten and relieve the melody, by throwing into his skilful and delicate harmonies those magical traits of genius and feeling which we would vainly expect from an inferior artist. A Scotsman, born and nurtured among Scottish airs, may, from a thousand pleasing associations, learn to *like* them better than the greatest Italian or German musician would do; but he will never learn to *understand* them better, nor probably half so well. Yet it is through confounding these two very different things, and imagining that, because we like our own airs better than foreigners do, we must therefore understand them better, that

many persons cannot comprehend how the best accompaniments to Scottish airs should be made by German or Italian composers.

We hear, likewise, a great deal about the Scottish airs, from the irregularity of their structure, being incapable of harmony, and about the consequent absurdity of attempting to give them a regular accompaniment. This sort of reasoning has been employed, in various shapes, by writers who have thought it necessary to enlighten their readers by disquisitions on the metaphysical principles of an art, of which, practically, they knew nothing. Such writers, indeed, generally go a good deal further, and affect to sneer at all elaborate and scientific music, and, in particular, at *harmony*,—endeavouring to degrade music from its rank as one of the fine arts, requiring, for its successful cultivation, intellect, genius, taste, feeling, and refinement; and to make its only legitimate objects consist in the invention and performance of such airs or melodies as are *naturally* pleasing, previous to the formation of what they call an artificial or corrupted taste. We cannot enter here into a general discussion of this question, though we must make a few observations on that part of it which relates to *harmony*, as this subject is more immediately connected with the merits of the work before us. It may, however, be remarked as singular, that music is, more than all others, a subject on which every body is ready to dogmatise—*docti indoctique*. It is generally considered necessary, before giving confident opinions regarding any other of the fine arts, to be acquainted with it—to know its principles, and to be familiar with all its greatest productions. No such thing is considered requisite in music; and yet, if it is reckoned presumptuous to discuss the subject of painting without having studied the works of Raphael or Titian,—or poetry without being familiar with Shakespeare, Milton, or Pope,—the charge seems fully as applicable to those who dogmatise upon music, without knowing any thing of Handel, beyond perhaps ‘the genteelst of tunes,’ the minuet in *Ariadne*,—or of Mozart, beyond the fashionable song of the day, sung by the *prima donna* at the Opera-house.

Every practical musician is aware, that the connexion between melody and harmony is of the most intimate kind, and that every melody that is really good, however unartificial in its structure, is perfectly susceptible of receiving additional beauty from good harmony. The pleasure which we receive from harmony is as natural (or as much derived from our original constitution) as that which is produced by melody. A contrary conclusion, indeed, is attempted to be drawn, from the ignorance of harmony among the ancients, and among uncultivated tribes.

and from the circumstance, that it generally affords no pleasure to children, or to persons unaccustomed to it. As to the state of music among the ancients, we really know too little of the matter to be able to determine, whether they were ignorant of harmony or not. The ignorance of harmony among uncultivated nations, arises from this, that harmonical combinations cannot be discovered without the aid of instruments, and of skill in the use of them, not to be found in a rude state of society. With regard, again, to the fact, as it is called, that harmony is at first positively disagreeable to persons who have not been accustomed to it, we conceive that much error exists, both as to the fact, and the inference drawn from it. An uncultivated taste has a very narrow circle of enjoyments. The common people of one country, who are passionately fond of their own melodies, can neither relish nor comprehend an air of another country, though it may be really as simple as one of their own. They cannot 'get it into their ear,' as they say, nor discover its beauty, till frequent repetition has reconciled them to a rhythm and modulation, so different from what they have been used to. Indeed it is quite common for a person of this description to be unable to comprehend even an air of his own country, if he happens to hear it for the first time. No wonder, then, that such people should be unable, at first, to perceive the beauty of a thing so new to them, as harmonical combinations of sound. But the truth is, that they learn to feel the beauties of simple harmony as soon as those of an unusual style of melody. Witness the delighted crowds of ragged boys and girls who used to stand in ecstasy round the military bands that paraded in all our market-places, in those 'piping times' of war which are now happily gone by. Witness also the numbers who follow our street-musicians, whenever the stupendous novelty of a violoncello is added to the 'ambulating orchestra.' The new effect of a bass, added to our popular tunes and dances, was immediately found to be delightful; and yet the ascent, from this harmony, which is thus experimentally shown to be natural, to the most chromatic combinations of Beethoven, is gradual and unbroken, arising merely from progressive refinement, and more enlarged views of the art. Witness, in the last place, the population of Wales, which is probably neither more nor less refined than that of other countries, but where, owing to the immemorial use of the harp, the pleasures of harmony are as familiar as those of melody.* Si-

* 'To this day,' says Professor Robison, 'the most uncultivated poor in the Russian empire would be ashamed to sing in unison. He listens a little while to a new tune, holding his chin to his

milar considerations apply to children. They learn, on their nurse's knee, to like melody; but, were they as early accustomed to listen to the sound of consonant thirds and fifths, we see no reason to doubt, that they would like them as soon as sounds in pleasing succession. Without resting on such remarkable cases as those of Mozart or Crotch, who delighted in harmonious sounds from their earliest infancy, we will venture to state it as a fact, well known to those who have bestowed any observation on the subject, that children who have an opportunity of hearing concordant sounds, very soon experience great pleasure from them. In addition to these considerations, others, of a more technical nature, may be pointed out, as establishing the same conclusion. It may be shown, for example, that a pleasing harmonical combination produces a pleasure of a similar kind, when the notes, of which the harmony consists, are thrown into a melody, or series of single sounds. But these views of the question would require a minuteness of detail, into which it is impossible at present to enter.

Rousseau is, we believe, the only writer, really a musician, who has maintained a doctrine contrary to that which we now contend for: and, accordingly, his authority has been appealed to by those who have tried to place melody and harmony in opposition, as it were, to each other. But there are two or three things which render Rousseau's authority of little value. The first is, his fondness for singular and paradoxical opinions. The man who could write eloquent declamations, to show that the best state of mankind is a state of nature, without arts or sciences, or the institutions of civilized life, might, very consistently, represent the most inartificial music as the best. Rousseau, besides, though he possessed taste and feeling, was very far from being a skilful or learned musician. He could compose simple and pretty airs (of which his celebrated opera, *Le Devin du Village*, entirely consists); but he was never able to produce any thing which required a mastery of the rules of counterpoint. Hence he was naturally disposed to exalt that branch of the art in which he excelled, and to depreciate what was beyond his reach. Lastly, the rules of harmony, in Rousseau's age and country, were narrow and erroneous,—founded upon an artifi-

' breast; and as soon as he has got a notion of it, he bursts out in concert, throwing in the harmonic notes by a certain rule, which he feels, but cannot explain. His harmonics are generally alternate major and minor thirds, and he seldom misses the proper cadence on the fifth and key.'—*Encycl. Brit. Article, Temperament of the Scale of Music.*

cial system which has long since been demonstrated to be false, —and totally inapplicable to the practice of later times. When good harmony was supposed to be impossible, where there was any departure from the rules of Rameau's *fundamental bass*, it might safely be maintained, that many of the finest national airs were incapable of good harmony, because they were incapable of harmony formed according to those rules. 'We do not hesitate,' says a very able speculative musician, * 'to say, that the rules of accompaniment are dependent on the *cantus* or air, and by no means on the fundamental bass of Rameau. The dependence (of melody upon harmony) assumed by him as the rule of accompaniment, would, if properly adhered to, according to his own notion of the comparative values of the harmonics, lead to the most fantastic airs imaginable, always jumping by large intervals, and altogether incompatible with graceful music. The rules of modulation, which he has squeezed out of his principle, are nothing but forced, very forced accommodations of a very vague principle to the current practice of his cotemporaries. They do not suit the primitive melodies of many nations; and they have caused these primitive melodies to degenerate. This is acknowledged by all who are not perverted by the prevailing habits. We have heard, and could write down, some most enchanting lullabies of simple peasant women, possessed of musical sensibility, but far removed, in the cool sequestered vale of life, from all opportunities of stealing from our great composers. Some of these lullabies never fail to charm even the most erudite musician, when sung by a fine flexible voice; but it would puzzle Mr Rameau to accompany them *secundum artem*.' Nothing can be more sound and judicious than these remarks on the musical system of Rameau;—and it may easily be conceived, that, when the rules deduced from that system were considered indispensable to the production of good harmony, it followed, as a consequence, that multitudes of national airs were held to be incapable of regular accompaniment. But there is no difficulty, in the present state of music, to accompany, *secundum artem*, any national air that deserves to be accompanied. It is now well understood, that the laws of harmony as well as melody (like the laws of composition in all the fine arts), are to be found only in the works of those composers, who, from their transcendent genius, have become models for imitation and

* Professor Robison. See Art. *Musical Trumpet* in the *Encyclopædia Britannica*.

study. A Haydn and a Beethoven avail themselves of every succession and combination of sounds which they find to be beautiful, expressive, or striking, without waiting to inquire whether it is sanctioned by some musical system; and the latter composer, in particular, often makes use of the wildest strains that are to be found in national music. Such men may sometimes be hurried too far, in the ardour of imagination; and, in these instances, their example will not be followed: but, in the general case, what was, at first, a happy license, becomes, by degrees, an established rule of the art. In this way, the laws of harmony have become so extended, that there is no melody worthy of the name, however wild it may be, to which an accompaniment may not be given, so as to preserve, and even heighten, the simplicity and peculiar character of the air. An ordinary composer is certainly apt to deform such an air, by squeezing it into a stiff suit of formal harmony. But the accompaniments of a national air ought to be like the picturesque attire of a beautiful savage, which heightens and embellishes the wild graces of the wearer. To compose accompaniments of this kind, requires the genius and judgment of the most consummate musician; and accordingly, by obtaining the assistance of the great masters whose names have been mentioned, Mr Thomson has produced a body of accompaniments for his melodies, which, in respect to originality and beauty, we conceive to be wholly unrivalled.

After all this poetical and musical disquisition, our readers will probably not quarrel with us for giving them, by way of refreshment, a few specimens of the poetry contained in this work.

The following exquisite little song, by Joanna Baillie, is finely adapted to a Welsh air.

‘ O welcome bat and owlet gray,
Thus winging low your airy way;
And welcome moth and drowsy fly,
That to mine ear came humming by:
And welcome shadows, long and deep,
And stars that from the pale sky peep;
O welcome all! to me you say,
My woodland love is on her way.
Upon the soft wind floats her hair,
Her breath is on the dewy air;
Her steps are in the whisper’d sound
That steals along the stilly ground.
O dawn of day, in rosy bower,
What art thou to this witching hour!
O noon of day, in sunshine bright,
What art thou to the fall of night!

Her song to the pretty Scottish air, 'The Shepherd's Son,' is so full of simple feeling and rural imagery—and withal so characteristic of the amiable genius of its author—that we cannot help transcribing it entire.

- ' The gowan glitters on the sward,
The lavrock's in the sky,
And Colley on my plaid keeps ward,
And time is passing by.
Oh no! sad and slow!
I hear nae welcome sound;
The shadow of our trysting bush
It wears sae slowly round!
- ' My sheep-bell tinkles frae the west,
My lambs are bleating near;
But still the sound that I lo'e best,
Alack! I canna hear.
Oh no! sad and slow!
The shadow lingers still;
And like a lanely ghaist I stand
And croon upon the hill.
- ' I hear below the water roar,
The mill wi' clacking din,
And Luckey scolding frae her door
To bring the bairnies in.
Oh no! sad and slow!
These are nae sounds for me;
The shadow of our trysting bush
It creeps sae drearily.
- ' I coft yestreen, frae chapman Tam,
A snood of bonny blue;
And promis'd when our trysting cam
To tie it round her brow.
Oh no! sad and slow!
The time it winna pass;
The shadow of that weary thorn
Is tether'd on the grass.
- ' O, now, I see her on the way,
She's past the Witches' knowe:
She's climbing up the Brownie's brae,—
My heart is in a lowe.
Oh no! 'tis na so!
'Tis glamrie I hae seen:
The shadow of that hawthorn bush
Will move nae mair till e'en.
- ' My book o' grace I'll try to read,
Tho' conn'd wi' little skill;
When Colley barks I'll raise my head,
And find her on the hill.

Oh no ! sad and slow !
 The time will ne'er be gane ;
 The shadow of the trysting bush
 Is fix'd like ony stane.'

Among the songs by Miss Baillie, there are two or three remarkably happy paraphrases (as they may be called) of old songs, which, with a great deal of merit, had become unsuitable to the taste of the age, from vulgarity and coarseness of expression. Of these, the songs of 'Woo'd and Married and a', and 'Poverty parts good Company,' are exceedingly good; but 'The Boatie rows,' (of which the following is the first stanza), is the best of them.

' O swiftly glides the bonny boat,
 Just parted from the shore,
 And to the fisher's chorus note,
 Soft moves the dipping oar.
 His toils are borne with happy cheer,
 And ever may they speed,
 That feeble age, and helpmate dear,
 And tender bairnies feed.
 We cast our lines in Largo bay,
 Our nets are floating wide,
 Our bonny boat, with yielding sway,
 Rocks lightly on the tide.
 And happy prove our daily lot
 Upon the summer sea,
 And bless'd on land our kindly cot
 Where all our treasures be !'

There are few things in music more delightful than the performance of this song, with its beautiful melody, its graceful and undulating accompaniment, and the fine strain of swelling harmony into which the voices rise in the concluding chorus;—while the pleasure given to the ear serves only to heighten the feelings which these sweet verses are so well calculated to excite.

A number of admirable songs have been contributed to this work by Professor Smyth of Cambridge. Mr. Smyth is a writer, we think, of great taste and sensibility;—and always expresses kind and generous feelings with an air of such natural delight, that it is impossible for his readers not to love the man, as much as they admire the poet. His songs do not speak the language of passion, like those of Burns, nor of voluptuousness like those of Moore: But they are full of true and natural feeling—often exquisitely tender, sometimes light and playful, and always elegant and graceful. These qualities constitute the charm of his well-known 'English Ly-

rics;' and they are still more remarkable in the poetry before us.

The beautiful Irish air, 'The Fox's Sleep,' is united to the following verses by Mr Smyth.

'The hero may perish, his country to save,
And he lives in the records of fame;
The sage may the dungeons of tyranny brave—
Ever honour'd and blest be his name!
But virtue, that silently toils or expires,
No wreath for the brow to entwine,
That asks but a smile—but a fond sigh requires—
O woman! that virtue is thine.'

There is much feeling and tenderness in the Address by a Dying Father to his Daughter, in a song of Mr Smyth's to the same melody.

'Thou hast walk'd by my side, and my board thou hast spread,
For my chair the warm corner hast found;
And told my dull ear what the visitor said,
When I saw that the laughter went round.
Thou hast succour'd me still, and my meaning exprest,
When memory was lost on its way—
Thou hast pillow'd my head ere I laid it to rest,—
Thou art weeping beside me to-day!'

We cannot part with this very agreeable poet without quoting two more of his songs. The first is exquisitely sweet and tender; and the other is an Anacreontic, which Moore himself has never surpassed.

'O thou art the lad of my heart, Willy,
There's love, and there's life, and glee—
There's a cheer in thy voice, and thy bounding step,
And there's bliss in thy blithesome e'e.
But, oh! how my heart was tried, Willy,
For little I thought to see,
That the lad who won the lasses all,
Would ever be won by me.

'Adown this path we came, Willy,
'Twas just at this hour of eve;
And will he, or will he not, I thought,
My fluttering heart relieve?—
So oft he paus'd, as we saunter'd on,
'Twas fear—and hope—and fear;
But here at the wood, as we parting stood,
'Twas rapture his vows to hear!

'Ah vows so soft—thy vows, Willy!—
Who would not, like me, be proud!
Sweet lark, with thy soaring, echoing song,
Come down from thy rosy cloud.

Come down to thy nest, and tell thy mate,—

But tell thy mate alone—

Thou hast seen a maid, whose heart of love

Is merry and light as thy own.'

The following is the Anacreontic, which is sung to a spirited Irish air.

- ' Put round the bright wine, for my bosom is gay,
The night may have sunshine as well as the day ;
Oh welcome the hours ! when dear visions arise,
To melt my kind spirit, and charm my fond eyes.
When wine to my head can its wisdom impart,
And love has its promise to make to my heart ;
Then dim in far shades sink the spectres of care,
And I tread a bright world with a footstep of air.
- ' Yes, mirth is my goddess—come round me, ye few
Who have wit for her worship, I doat upon you ;
Delighted with life, like a swallow on wing,
I catch every pleasure the current may bring :
The feast and the frolic, the masque and the ball,
Dear scenes of enchantment ! I come at your call ;
Let me meet the gay beings of beauty and song,
And let Erin's good-humour be found in the throng.
- ' If life be a dream—'tis a pleasant one, sure,
And the dream of to-night we at least may secure ;
If life be a bubble, though better I deem,
Let us light up its colours by gaiety's beam.
Away with cold vapours—I pity the mind
That nothing but dulness and darkness can find :
Give me the kind spirit that laughs on its way,
And turns thorns into roses, and Winter to May.'

There are a good many songs by Sir Walter Scott, most of which are written with his characteristic spirit and genius ; though some of them appear to be not very well adapted for singing. This, however, is not the case with the following beautiful verses, with which we must finish our quotations, and which are truly and essentially a *song*—in every respect.

- ' O maid of Isla, from yon cliff
That looks on troubled wave and sky,
Dost thou not see yon little skiff
Contend with ocean gallantly ?
Now beating 'gainst the breeze and surge,
And steep'd her leeward deck in foam,—
Why does she war unequal urge ?—
O Isla's maid ! she seeks her home.
- ' O Isla's maid, yon sea-bird mark,
Her white wing gleams thro' mist and spray,
Against the storm-cloud, lowering dark,
As to the rock she wheels her way.

Where clouds are dark, and billows rave,
 Why to the shelter should she come
 Of cliff expos'd to wind and wave?—
 O maid of Isla! 'tis her home.

' As breeze and tide to yonder skiff,
 Thou'rt adverse to the suit I bring,
 And cold as is yon wintery cliff,
 Where sea-birds close their weary wing.
 Yet cold as rock, unkind as wave,
 Still, Isla's maid, to thee I come;
 For in thy love, or in his grave,
 Must Allan Vourich find his home.'

The ' Dissertation concerning the National Melodies of Scotland,' prefixed to the first volume of this work, contains some ingenious speculation and curious information on the subject of which it treats, and is, altogether, creditable to the talents of the author. He has given a more complete and accurate analysis of the Scottish airs, considered in reference to their peculiar musical structure, than has, as far as we know, been hitherto accomplished; and has deduced from this analysis several conclusions, regarding the antiquity of the melodies, which are at least very plausible, and worthy of attention. Some amusing particulars are mentioned respecting the situation of the bards and minstrels of Scotland. In the reign of James III., they seem to have been highly favoured. That prince was so fond of music, that a part of the choristers of the Chapel-royal at Stirling were always at hand, 'to sing and play' (in the words of Lyndsay), 'and hold him mirrie.' The following notice, as to their situation in still more remote times, is curious.

'It appears from Bellenden's highly curious translation of Boece's *Chronicles of Scotland* (Buke 10, chap. 12), that so early as the reign of Kenneth II., "who drew all the confusit laws of Scotland in ane compendius volumen," it was ordered, that, "all vagabondis, fulis, *bardis*, *scudlaris*, and all sicklik idill pepill, sall be brint on the cheik, and scurgit with wandis, bot (unless) they find sum craft to win thair leving."

'In the reign of Macbeth, too, the minstrels must have been deemed very troublesome subjects; for we find from the same *Chronicle* (Buke 12, chap. 4), in an enumeration of a set of singularly curious "laws maid by him for the common weil," the following enactment: "Fulis, *menstralis*, *bardis*, and al othir sic idil pepill, bot gif thay be specially licent be the king, sall be compellit to seik sum craft to win thair leving;—gif thay refuse, they sall be drawin, like hors, in the pluch and harrowis." The Chronicler adds, "Thir and sicklik lawis war usit be King Makbeth: throw quhill be goverment the realme x yeris in god justice!"

We should now, in the exercise of our vocation, proceed to

pick out the faults of this book; and we could have no great difficulty in pointing out some poor enough verses which the worthy Editor has admitted among his novelties, and some odd junctions of poetry and music,—as, where he makes Scott's lively little poem of 'Highland Nora,' be sung to the tune of 'The ducks dang o'er my daddy;' and puts the same author's imitation of the old English metaphysical poetry to the tune of 'O'er Bogie.' These matches certainly seem to us to be sufficiently ill-assorted; but they detract very little from our general opinion of the work, which is exceedingly elegant and agreeable, and highly creditable to the Editor, as a man of taste and liberal accomplishments.

ART. V. *Royal Memoirs on the French Revolution; containing, I. A Narrative of the Journey of Louis XVI. and his Family to Varennes.* By MADAME ROYALE, DUCHESS OF ANGOULEME. II. *A Narrative of a Journey to Bruxelles (qu. Brussels?) * and Coblenz, in 1791.* By MONSIEUR, now LOUIS XVIII. III. *Private Memoirs of what passed in the Temple, from the Imprisonment of the Royal Family to the Death of the Dauphin.* By MADAME ROYALE, DUCHESS OF ANGOULEME. With Historical and Biographical Illustrations: by the Translator. 8vo. pp. 302. London. Murray, 1823.

IT is remarked by Hume, in one of the Appendixes to his History, that of the classic writers of antiquity, the greater number were persons in the higher ranks of society; and although those of the highest station in the community were not very famous members of the republic of letters, yet even they did homage to the prevailing taste; for of the first twenty Roman Emperors, above one half were authors. The reverse is certainly the fact in modern times; of which perhaps a better proof can hardly be imagined, than the boast by which Horace Walpole introduces his Catalogue of Royal and Noble authors, that there are ten of the former, and above fourscore of the latter, 'a number,' says he, 'much exceeding what is generally known;' for he swells out the list, by making every one rank as an author, who is known at any time to have written any thing; and accordingly, his kingly writers have not among them a single name known in the literary world, while there are but two or three noblemen born who are at all remembered by their compositions.

* Nothing can be more absurd than this affected use of the French word. Why not also Roma, Napoli, Ufen, &c. &c.?

For this undeniable fact Mr Hume accounts, by referring to the invention of printing, which now puts books within the reach of all classes; and, no doubt, this is the chief cause of the diversity of the present day. But another has been steadily operating, long before that great step in the progress of improvement, and indeed ever since the fall of the Roman empire. The superior value set upon martial qualities, which, until the later periods of the Roman history, prevented the leading men of the state from cultivating letters in the dark ages, produced a similar effect still more universally, and threw the little science that was left wholly among the clergy, who continued to engross it almost entirely, until the art of printing diffused knowledge among all classes, and rendered it at once accessible to laymen, and, as it were, beneath the peculiar attention of princes, who regarded it as a cheap and vulgar enjoyment, were satisfied to take as much of it as might be necessary for their own purposes, indifferent about it as a luxury, and averse to its free use among their subjects, when they foresaw the consequences to which it led. As literary habits have thus become rare among princes in modern times, we might be led to expect uncommon talents in those individuals who proved exceptions to the general rule of their caste; and as any taste or inclination of royalty is of easy gratification, as all efforts of potentates are sure to meet with extraordinary encouragement and assistance, we should naturally look for signal success in their intercourse with the Muses, were not our hopes checked by the reflexion, that minds, like plants, may be spoilt by forcing, and that the abundance of adventitious props may weaken the natural stamina, by superseding the necessity of intrinsic vigour.— Nothing else can explain the almost universal mediocrity of Royal compositions, in spite of the great and manifest advantages enjoyed by their authors, and the undeniable truth of the position, that a prince who turns his attention to such pursuits in these days, must be a man above, rather than below the average in natural talents.

We should not, however, wonder if the fact were denied by the worshippers of Royalty. But upon what grounds? By far the best of the class as a writer was Frederick II. of Prussia; and yet, giving him the credit of all that passes under his name, with the single exception of the '*Seven years war*,' can it be pretended, that, of his numerous volumes, one would have been known to posterity, or more than one ever have found a publisher at all, even in Germany, had they been the works of a private hand? The excepted book itself has, no doubt, considerable merit, for it is plainly and clearly written; but by far its greatest value is derived from the accidental coincidence of

the sword and the pen in the same hand. His verses are below contempt,—bad even as *vers de société*; and his letters are only interesting because of the great men he corresponded with, and the great events in the midst of which they were written. That a statesman and a warrior of the first class should be addicted to letters at all, is undoubtedly matter of some wonder, and much praise; but our admiration is given to the actions far more than the writings, when it is bestowed upon the union, because of its rarity.

In our own country, the only Royal genius who can be pointed out is James I. of Scotland, a prince of the most happy nature as well as most amiable dispositions; and to his long and rigorous captivity in England may be ascribed the success of his literary pursuits. Next to him we fear not to place, though at a prodigious distance, the sixth monarch of that name; and the only other British prince deserving the title of a literary man. He was a man of undoubted learning, wholly destitute of genius, but endowed with some cleverness. His success in cultivating letters must be judged of by a comparison with his contemporaries. Mr Hume has justly observed, that his Speeches are better than those of the Speaker of the House of Commons, at the same period; but it may be added, that the lumber of extraneous learning, which overloads all he has written, and gives his productions so pedantic an aspect, as well as the affected and often silly style in which they are written, must not be hastily pronounced the indications of dulness or folly; since the readers of the great luminary of English law, can be at no loss to match such defects in almost every part of those works which, says Fuller, 'will be admired by judicious posterity, while Fame has a trumpet left her, or any breath to blow therein.' We allude now, of course, only to his published prose works; and chiefly to the Basilicon Doron, and Commentary on the Lord's Prayer. His verses were beneath contempt; and his unpublished correspondence with Buckingham his favourite, are described by Wellwood as too disgusting to be read by a modest eye. *

* In the Funeral Sermon preached by Bishop Williams (Keeper of the Great Seal) and entitled, 'Great Britain's Solomon,' we are told, that His Majesty 'was in hand with a translation of the Psalms, 'when God called him to sing psalms with the Angels.' This discourse is a comparison of James with Solomon, but to the manifest disadvantage of his Judaical Majesty, even in wisdom and eloquence. As for conduct, 'Every action (saith the Bishop of Lincoln) was a crime, and a miracle to exempt him from any parallel amongst the best kings and princes.' Now, on reading this sermon, the iron naturally arises upon the Right Reverend Lord Chancel-

The claims of Charles, his son, have, we know, been ranked very high in the scale which is now in our hands; and assuredly if the *sexon* had been his composition, even as a literary work, it would not only place him at the head of the short and meagre catalogue of Royal authors, but secure for him a respectable station among the writers of his age; for it is full of piety and wisdom, and its style is pure and graceful. But no man, capable of weighing testimony and probabilities, can hesitate in rejecting Charles's claims to this famous production. The silence of Clarendon upon the subject in his History, explained by his letter to Dr Gauden, and the explicit denial by both Charles II. and James II. as vouched by two unconnected and respectable witnesses, Bishop Burnett and Lord Anglesey, would be decisive of the question, even if we could overlook the positive evidence of Dr Walker and Bishop Patrick. Nor can much reliance be placed on the argument, derived from the superiority of the style to that of Gauden's known works; both because it may possibly be neither Charles's nor Gauden's, and because it may be Gauden's formed and otherwise corrected by those through whose hands all the direct testimony shows it to have passed.

Horace Walpole was not aware that Charles II. had claims to a place in his list, although our countryman, the learned and laborious Lord Hailes, as far back as the year 1766, edited a curious account of his adventures after the battle of Worcester, unquestionably written by himself, and republished some letters to his friends, chiefly to Arlington, there called Henry Bennet; together with a few made publick for the first time. Considering the high reputation of the King for wit, the narrative is as dull a piece as may be read; but it has better qualities than

lor's motive for all these praises, since, whatever doubt might exist as to the other particulars in the King's life, one passage was undeni-
 ed, viz. that he was naturally dead, and going to be buried, if not
 actually under ground at the time. Why then should the Bishop so
 squander his commendations? The next sentence explains it. 'Of
 'all Christian Kings that ever I read of, he was the most constant
 'patron of churches and churchmen.' His successors were there-
 fore to be shown how it would fare with them in this world after their
 decease, if they followed his steps; they would be praised for a few
 weeks, instead of being suddenly forgotten. His Lordship further
 shows what became of the King's soul. 'Severed from the drags of
 'the body, it doth now enjoy an eternal dreaming (*qu. cadem sequi-
 tur tellure repostas*) in the presence of God, environed no more
 'with Lords and Knights, but with troupes of Angels and the souls
 'of the blessed, his forerunners.'

liveliness, in a detail of interesting particulars; for it is distinct, and full, without being in the least degree tedious; it has also the air of perfect veracity throughout; and it contains none of the silly or vulgar peculiarities so strikingly displayed in some of the Bourbon pages now before us,—unless it may be thought that the last of these epithets is applicable to a tone of selfishness, a cold disregard of other men's safety as well as their services, and a proportionate anxiety about the Royal person's accommodation, which runs through the tract. This, however, we suppose, might be naturally looked for in the narrative of any prince's sufferings. We shall extract a few lines, giving the King's account of the most noted and critical passage in his escape, his concealment in the Royal Oak. Possibly the reader may think the details as to provisions somewhat more in the style of Louis XVIII., than we are willing to allow. The composition altogether is mean; not even good for the age in which it was written; and about as much inferior to that of the present day, as if it was his Most Christian Majesty's own handywork.

' Which being done, we went on our way to one of Penderell's brothers (his house being not far from White Lady's), who had been guide to my Lord Wilmot, and, we believed, might by that time be come back again; for my Lord Wilmot intended to go to London upon his own horse. When I came to this house, I inquired where my Lord Wilmot was. It being now towards morning, and having travelled these two nights on foot, Penderell's brother told he had conducted him to a very honest gentleman's house, one Mr Pitchcroft,* not far from Woolverhamptom, a Roman Catholic. I asked him what news? He told me that there was one Major Careless in the house, that was that countryman; whom I knowing, he having been a major in our army, and made his escape hither, a Roman Catholic also, I sent for him into the room where I was, and consulting with him what we should do the next day. He told me that it would be very dangerous for me either to stay in that house, or to go into that wood, there being a great wood hard by Boscobel; that he knew but one way how to pass the next day, and that was to get up into a great oak, in a pretty plain place, where we might see about us; for the enemy would certainly search at the wood for people that had made their escape. Of which proposition of his I approving, we (that is to say, Careless and I) went and carried up with us

* Pepys, to whom the narrative is addressed, informs us in a note, that it is not surprising if, after an interval of twenty-nine years, the King should confound the name of Mr Whitgrave, with that of a place, viz. the meadow near Worcester,

‘ some victuals for the whole day, viz. bread, cheese, and small beer, and nothing else, and got up into a great oak that had been lopt some three or four years before, and being grown out again, very bushy and thick, could not be seen through; and here we staid all the day. I having, in the mean time, sent Penderell’s brother to Mr Pitchcroft’s, to know whether my Lord Wilmot was there or no; and had word brought me by him at night that my Lord was there; that there was a very secure hiding-hole in Mr Pitchcroft’s house, and that he desired me to come thither to him.

‘ Memorandum. That while we were in this tree, we see soldiers going up and down, in the thicket of the wood, searching for the persons escaped, we seeing them, now and then, peeping out of the wood.

‘ That night Richard Penderell and I went to Mr Pitchcroft’s about six or seven miles off, where I found the gentleman of the house,’ &c. p. 23. *et seqq.*

The following is Mr Hume’s account of the same passage, and affords a very fair sample of his ordinary degree of accuracy; and, at the same time, a striking proof, because in minute particulars of comparatively little moment, how uniformly his mistakes are made to favour the Stuarts.

‘ The King left Worcester at six o’clock in the afternoon, and, without halting, travelled about twenty-six miles in company with fifty or sixty of his friends. To provide for his security, he thought it best to separate himself from his companions, and he left them without communicating his intentions to any of them. By the Earl of Derby’s directions he went to Boscobel, a lone house in the borders of Staffordshire, inhabited by one Penderell, a farmer. To this man Charles intrusted himself. The man had dignity of sentiments much above his condition; and, though death was denounced against all who concealed the King, and a great reward promised to any one who should betray him, he professed and maintained unshaken fidelity. He took the assistance of his four brothers, equally honourable with himself; and having clothed the King in a garb like their own, they led him into the neighbouring wood, put a bill into his hand, and pretended to employ themselves in cutting faggots. Some nights he lay upon straw in the house, and fed upon such homely fare as it afforded. For a better concealment, he mounted upon an oak, where he sheltered himself among the leaves and branches for twenty-four hours. He saw several soldiers pass by. All of them were intent in search of the King, and many expressed in his hearing their earnest wishes of seizing him,’ (*Hist.* vii. 203. (8vo.)

It is thus that History is manufactured by indolent and partial writers, who, having a talent for narrative, being careless of truth, omit the facts which do not suit them, and invent circumstances to fill up blanks in their materials, or save themselves the trouble of research, making their fancy subservient to the purpose which they may have in view of exalting a party or an individual. There are more misrepresentations than sentences in the passage we have now cited. It was by Mr Gifford's advice, not Lord Derby's, that the King went to Penderell's house. (*Narrative*, p. 6.) He travelled twenty, not twenty-six miles without halting. (*ib.*) The Penderells, beside 'a dignity of sentiments much above their station,' were all Roman Catholics, and had hiding-places for priests whom they were wont to conceal (p. 12.), and Charles gives this as the reason for going to them. He did not lie 'some nights on straw in their house,' nor any night; but he was concealed in a barn belonging to a country gentleman in the neighbourhood, one day. (p. 20.) And the Royal Oak scene happened after two nights only. As for the homely fare, he twice in those two days had meat at this gentleman's, beside bread, cheese and beer, from the Penderells repeatedly. (*ib.*) His taking to work in the wood is apparently a fiction; at least he never mentions it, though very minute in all his details of this passage. In the oak he remained, not twenty-four hours, but during one day, and at night went off to Mr Whitgrave's. While he was in the tree, instead of being alone, he had Major Careless, another Catholic, with him, who is not mentioned by the *Historian*; but to make up for such omissions, we are told that the King heard the soldiers *all intent* in their search for himself, and many expressing their *earnest wishes* of seizing him—matters wholly unknown to his Majesty, who only says that he saw the soldiers searching for the fugitives.

We shall give one more extract from the *Narrative*; and it is the best passage in it.

'As I was holding my horse's foot, I asked the smith what news? He told me that there was no news that he knew of, since the good news of the beating of the rogues the Scots. I asked him whether there was none of the English taken that joined the Scots? He answered, that he did not hear that that rogue Charles Stuart was taken, but some of the others, he said, were taken, but not Charles Stuart. I told him that if that rogue were taken, he deserved to be hanged more than all the rest for bringing in the Scots. Upon which he said, that I spoke like an honest man; and so we parted. (p. 52.)

There is in Charles's details a very frequent mention of the

fare which he had in his wanderings; but, not to mention that a person in his station must naturally have regarded the difficulty of satisfying his hunger as one of the greatest novelties of his adventures, we may observe, that he only introduces the subject to show the straits he was reduced to, and always where it was doubtful whether he should not suffer from actual want. The Bourbon Annalist views the interesting subject of dinner and supper in a very different light, as we shall presently see. The uneasiness in which he is thrown by the dreadful prospects of abundant plain, homely food, shares his thoughts with anxiety about his life, then at stake, and the fate of his country. An unlooked for escape from destruction excites hardly any more delight than a fricassee or a bottle of Burgundy, which he had not ventured to hope for—nay, he is on the point of risking his neck for a forgotten walking stick.

The volume before us, which contains the Journal of the present King of France, and two of the Duchess d'Angouleme's, is one of the publications now become very frequent in this country among our Ultra-Royalists, who live in habitual ecstasies of affection towards every thing despotic, and fancy they are indulging a 'mighty elegant' passion, when they are collecting every scrap of Bourbon anecdote as a memorial of classical achievements. Having got hold of one note, to which public feeling may be attuned, even in favour of that hateful family, the barbarous treatment of Louis XVI. and his wife and son, they must be perpetually striking it, till they deafen or weary their audience, instead of exciting any sympathy. They are romantic upon the subject to enthusiasm; but it will not do; they have all their romance to themselves. Among their number are to be found no Clarendons, or Burkes; and the heavy pages of the mere plodding anecdote-monger, the collector of names, the rectifier of dates, and collator of parallel accounts of passages almost all devoid of real importance, are little calculated to captivate readers in an age somewhat too rational, with all its faults and its follies, to be enamoured of a race now only remarkable for feebleness and bigotry, hatred of freedom, and ingratitude to their best benefactors. Had such a generation suffered ten times as much, the people of this country never could have regarded them as objects of attachment, or even of very long-lived compassion. But we are now to view them as swelling the list of Royal Authors.

I. Madame d'Angouleme's Narrative of the Flight to Varennes.

This is, in itself, a very short and a very meagre tract. It consists of a dozen small and widely printed pages, with twice

as much of note and comment. These notes, admitting the subject to possess all the interest which the Editors take in it, and to merit the great pains they seem to have bestowed, are deserving of praise for their fulness and apparent accuracy. No labour has been spared in collating the many other accounts before the publick of the same transactions; and, considering that these are drawn up by eyewitnesses, we must admit the truth of the melancholy inference here drawn from these discrepancies, against the credit of historical evidence generally. The Duchess's Narrative is nearly devoid of interest; for, except adding to the number of those discrepancies, it really in no material respect increases our store of facts. That the prevention of the King's escape turned upon a very narrow chance, was well known; that the difference of an hour or less, in point of time, would have saved him, was never doubted. The total want of decision in himself and all about him, throughout the whole movement, was the cause of his arrest; this is fully admitted by the Royalist whose notes are before us, as far as regards the King; but he would fain show, that the efforts of the Queen and others were paralyzed by deference to their Chief—a conclusion somewhat inconsistent with what he admits to have been in their plan, placing a steady and commanding person in the party, a Count d'Agoult '*un homme de tête*, who could give directions, and who would overcome trifling difficulties.' This step, it seems, was judged necessary 'by those who knew the King's reserve, indecision, and inexperience of travelling'—and no one can wonder at the arrangement. What hindered it from being carried into execution? The *etiquette* of the old Court—the inflexible *etiquette* of the *ancien regime*. At a moment when the Queen was escaping from prison in the disguise of a governess, and the King himself as a *valet-de-chambre* to Madame Tourzel, one of his own household, who was to pass for a German Baronness, this Madame de Tourzel steps in, and by the most singular practical *bull* on record, forgetting her assumed character, claims her right, by virtue of her office, to travel in the same carriage with their Majesties and the children of France, and excludes the Count Hannibal d'Agoult, the *homme de tête*, whose firmness of character was to have saved the whole party! Lest it may be thought that we speak irreverently of the King's incompetence on this occasion, let the Ultra-loyal editors be heard on the point: 'It must, in justice to all the officers engaged in the affair at this critical moment, be confessed, that the irresolution and timidity of the King himself almost, if not entirely, justified their conduct. Even the high spirit of the Queen herself

‘ seems to have failed before the *strenua inertia* of the King. ‘ No one present except Louis had any right to command; and ‘ Louis’s only orders were, to do nothing.’

It is clear, that, as the Editor observes, ‘ such a series of fatal ‘ accidents, all tending to one point, can hardly be paralleled in ‘ the history of unfortunate princes,’ as these, the concurrence of which delayed the progress, and facilitated the arrest of the party. The principal misfortunes and blunders were, the arriving at Varennes, where relays of horses were provided for them, but not taking care to ascertain where those relays were to be found. Even this, however, would not have proved fatal, had their zealous and devoted adherents been able to travel, on swift horses and a good road, as much as six miles an hour, during that one night,—and to get more help, supposing them to have no right to attempt a defence or a rescue with sixty hussars, and nothing but a mob to oppose; for, without ever dreaming that such a thing was practicable, three gallant and chivalrous spirits rode off, between ten and twelve o’clock, to the Marquis de Bouille’s head-quarters, twenty-four miles distant, and brought back a regiment of cavalry, which did not arrive before nine, when the Royal Prisoners had been gone an hour and a half, and no attempt was made to overtake them.

— The importance of the King’s arrest was no doubt deemed very great at the time; and the Royalists, we find, looking back to it even now, describe it as an event ‘ on which the destinies of the whole world hung;’ assuming, that it occasioned not merely the deaths of the Royal Captives, but ‘ the anarchy, the ‘ republic, the consulate, the empire, and the double restoration.’ We would by no means be understood to undervalue its magnitude or effects; but that a man like Louis XVI. could, by his presence on the Rhine, even aided by Maria Antoinette and her little coterie, have arrested the progress of the Revolution, swayed the councils of the Allies, and guided the conduct of the infatuated and feeble emigrants, is, as it seems to us, the height of absurdity. We may be of obtuse feelings, or of judgments so stubborn as not to consult our feelings when reasoning upon men and things,—or of so unseemly a disposition for prying into particulars, that we can hardly avoid re-collecting, while we read one page, the character given to this unfortunate prince in another; but it does seem to us, uninitiated in the sentiment and the logic of the *Pavillon Marsan*, that the principal difference which Louis’s successful escape would have made, would have been the removal of by far the greatest impediment in the course of the French Revolution,

and the most popular of all the outcries which have been raised against its authors. He must be almost wilfully blind who can now imagine, that the republicans would have had less power in France, and less influence in Europe, and less credit in after times, if they had avoided the hated name of regicides; or that the personal qualities of the King and Queen would have done any thing but service to the revolutionary cause, had they quietly taken up their head-quarters at Coblenz, with the other princes, their equals in public disesteem, not superior to them in political and military incapacity, inferior to the unfortunate King in irresolution, and to the ill-fated Queen in reputation for intrigue.

II. *Louis XVIII.'s Narrative of his Escape from France.*

No sooner do we enter on this part of the publication before us, than we discover a very different cast of sentiment pervading the Editor's commentaries. In the Preface, a most candid admission is made, that the work has disappointed all who had expected literary merit in it; that it has destroyed the reputation of the King as an adept in the niceties of the French language; the French critics asserting that 'it is *vulgarly ungrammatical*.' Of this the Editor pretends not to be a competent judge; but 'he must admit, that the performance does not place his Most Christian Majesty very high in the list of Royal Authors, as the style is bad, the observations often puerile, and the sentiments far from noble.' The notes are in much the same spirit, and allow no absurdity of the text to pass unobserved. In one place, the King is chid for needlessly and indecorously ascribing some 'trivial' occurrence to Providence; and yet it is the circumstance to which his escape is chiefly owing. Nor can there be a doubt, that, had a far less prominent incident been attributed to the Divine aid by either Marie Antoinette or her daughter, or even by the Count d'Artois, we should have heard of nothing but 'singular piety'—'habitual devotion'—'constant self-denial'—and 'amiable enthusiasm.' In another passage, a direct and uncalled-for allusion is made to a supposed intrigue with a married woman, his Majesty being also married; and yet, furious would be the indignation of the Editor, if any one were to demand, why, in the superabundance of minute details upon Madame d'Angouleme's narrative, Count Fersen's share in the Varennes expedition is passed by without the slightest allusion to what was far more, *the scandal of Paris*, than the obscure attachment of the present

King to Madame de Baller. * This diversity of treatment, applied to the different branches of the family, is sufficiently remarkable; but it is easily explained. Louis XVIII. had at first favoured the Revolution; he 'generally voted with the *colé gauche*;' he was 'a moderate reformer' (p. 89, *Note*); and, since his restoration, he has by no means fulfilled the expectations of the Ultra party, whom nothing, it appears, will satisfy that mortal can do for them in the way of counter-revolution and new confiscations, political proscription and religious persecution. It is customary, therefore, with this class, both in Paris and London (they extend not, we believe, into the country) to vilify the King, and exalt the more violent and intolerant branches of his family, as more congenial to themselves. It must not be imagined, that we are going to undertake his Majesty's defence against the attacks and sneers of this writer,—we only desire to point out his partiality, and its causes.

The King's Narrative is dedicated, in a very affectionate address to M. d'Avary, in token of the Royal author's lasting gratitude for his services upon the occasion of his escape. To him, indeed, its success was entirely owing; and it had cost him sacrifices, though the King greatly overrates them. The constant feeling of friendship towards this faithful follower, forms the only pleasing trait in his Majesty's character and habits of writing, as far as this work develops them. Towards others he seems to have felt more soberly. No doubt, he consulted Madame de Balli, as the Editor says, 'on the spiritual concerns of his conscience,' at the moment that his scruples would not suffer him to receive the mass from a constitutional priest; but he seems to have planned his own escape, and allowed Madame (his wife) to plan hers apart, and both executed their projects separately. The manner in which our pious Æneas drops his Creusa is diverting enough. 'And as to what concerns Madame, I may here say, once for all, that Madame Gourbillon, her reader, undertook to do all that was necessary, and acquitted herself of the task with equal ability and success.' Accordingly, the Royal pair meet in the Low Countries, as Æneas and his lady would doubtless have done in their day, had Creusa only been fortunate enough to have a *Lectrice*. The following is the account of the escape from the Thuilleries.

* Madame Campan's silence on the subject of Count Ferson, when she elaborately vindicates her Royal mistress against charges never listened to, such as the ridiculous anecdotes in Lauzun's infamous book, is truly remarkable.

‘ I must here observe, that my first valet-de-chambre always slept in my room, which, unless I put him in my confidence, appeared an insurmountable obstacle to my escape ; but I had satisfied myself, by a rehearsal which I had made two days before, that before he could undress himself and come back to my room, I had more time than was necessary to get up, light a candle, and get into my closet.

‘ Accordingly, the moment he was gone I got up, and, closing carefully the curtains of my bed, and taking with me the few things which I wanted, I got into my closet and shut the door ; and from that moment, whether from a presentiment, or from my confidence in d’Avaray, I thought myself out of France. I put in the pockets of my robe de chambre three hundred louis which I took with me, and passed into the private apartment, where d’Avaray was waiting for me, after having had a very serious alarm ; for when he attempted to enter it, the key would not turn in the lock :—a thousand fancies, one worse than the other, had passed through his mind. At last, however, he thought of turning the key the other way, which happened to be the right one.

‘ D’Avaray dressed me, and when I was so, I remembered that I had forgotten my cane and a *second* snuff-box which I wished to bring away. I was going back to look for them, but d’Avaray would not permit such rashness, and I did not persist in my intention. The clothes fitted me very well ; but the wig was a little too light : however, as it fitted tolerably, and as I was resolved, whenever I could, to keep a large round hat with a great tri-coloured cockade over my eyes, the ill-fitting of the wig did not give us much trouble. In crossing the private apartments, d’Avaray told me that there was a carriage like our own waiting in the great court of the Luxembourg : this made him uneasy ; but I quieted him by acquainting him that it was my wife’s ; yet when we were on the stairs, he desired me to wait, and went to see if it were still there. Not seeing it, he returned, saying, “ *Come along with me.*”—“ *I am ready,*” I replied, and we proceeded to our carriage, which was a vis-à-vis. By accident, I had placed myself with my back to the horses. “ *What,*” said d’Avaray, “ *you are ceremonious ?* ” “ *Faith,*” said I, “ *here I am.*”—He did not persist in his compliment, and, directing the coachman to drive to the Pont Neuf, we left the Luxembourg.

‘ My joy at having escaped from my prison,—a joy which d’Avaray sincerely shared,—turned all our thoughts towards gaiety. And, accordingly, our first impulse, after crossing the threshold, was to sing a verse of the parody of the Opera of Penelope—

“ *Ca va bien,*

Ca prend bien,

Il ne se doutent de rien. ” pp. 91-94.

—And instantly the noble-minded and pious Editor administers a sharp rebuke in a note, ‘ confessing that the mode of expressing satisfaction was not very noble, nor very suitable to the King’s own circumstances, and to those of the rest of his fa-

'mily.' Would he have had a mass performed on the spot or a vow made, after the most approved examples of the 'olden time,'—to found some chapel where souls might be rescued, by much importunity of priests, from purgatory? The indecorous jest in p. 65, needlessly copied out of Rabelais, and levelled at the most awful solemnity of the Romish church, extreme unction, seems a little at variance with such strictness. Indeed far more religion, not to say superstition, appears in the text of this book than in the notes. D'Avaray's appearing at a certain time is treated as so manifest a providence as 'the most obstinate infidel' could not deny; and the finding of a small crucifix, to which he attached great value, is plainly deemed to be miraculous.

For the details of the journey we must refer to the work, in which nothing strikes the reader more than the author's marvellous ignorance of the world. All the remarks are those of a petty understanding, no doubt, and a trivial and frivolous taste; but they are far more strikingly those of one who had seen nothing, and to whom every thing was new and surprising. The unfitness of persons so educated, to govern great empires, is too striking to require any illustration. Who can read the following long dull story about nothing at all, and observe the interest attached by his Majesty to an every day's occurrence, without being sensible that his acquaintance with life was about equal to that of a child emerging from the nursery?

'A woman came out, and invited us to walk in and refresh ourselves: we declined going in, but we accepted some chairs she offered us outside the door. D'Avaray sent Sayer for his writing case, and began to set down in ink the notes of our journey, which he had taken with a pencil. Whilst he was doing so, two women came near the bench, one of whom was aged, and the other younger. The youngest sat down on the bench, but the old woman, having placed upon it a load somewhat heavy that she had been carrying, sank, rather than seated herself, on the ground, and seemed to be taken ill. We asked what was the matter; but the mistress of the inn (for such it was) told us they were two German women from Wurtzbourg, who executed the commissions of the officers of the garrison of Namur. The youngest was looking at the other in a manner extremely affecting; and though we did not hear what she said, the word *maman*, pronounced in a tone as soft as a flute, struck upon our ear, and still more on our heart. We requested the mistress of the inn to give her something, and she offered her some beer; but she asked for some brandy. The landlady told us she had none, and that the wife of the blacksmith, who was then repairing our carriage, and who might have given some, was at church; but luckily some boys of the village came by, and she sent one of them, who offered his services very

willingly, to fetch the brandy. While we were waiting for his return, we expressed to the landlady our surprise that there should not be a little brandy in her house.' pp. 132-134.

A speech of the good hostess then follows, expounding the reason why her bottles and her limbs were out of repair; the boy, however, returns with a glass of the liquor, and a most touching scene follows.

'It was given to the old woman, who drank a little, and then gave it to her daughter: the latter wetted her lips, and returned it to her mother. We wanted to pay the boy, but the mistress of the inn told us she had given him twelve sous; we would have given him something more, but he ran off too quickly for us to think of following him. We then gave the landlady a piece of six francs, and she brought the poor woman some bread and butter, and some beer. The old woman having recovered a little strength, rose, and came to kneel before us, kissing our hands. We raised her up immediately, and taking off my hat, I pointed to the sky, and said, *Gott, Gott!* upon which she took her beads, pressed them to her heart, and began to pray. The landlady, with whom we continued conversing on the subject of her sufferings, said to us, "Ah! gentlemen, revolutions are cruel things! I suffer as much from the revolution in France as from that in our own country, and I am very uneasy on account of my parents. I was born at Frombaine, near Givet; I do what I can to prevail upon them to leave the town, but I cannot succeed, and it makes me very unhappy. Ah! gentlemen, there is nothing but God, one's king, and one's country." D'Avaray had already been affected to tears by the action of the old woman; I was moved, elevated by the words of the landlady. "Well, my good woman," I said to her, "as you think so, pray to God for the king; his life is perhaps in the greatest danger; he has left Paris." "Oh heavens!" she cried, "what do you tell me?" "Yes," said d'Avaray, "there is his brother, who escaped at the same time as himself." "And there," I added, "is the friend that has saved me." I threw myself into his arms, and our tears were mingled. Sayer, retired into a corner, was wiping his eyes. The woman, much affected, said to me, "You are the brother of the King! Ah! if I might venture to touch you!" "Do better, my good woman, embrace me." The carriage was repaired; I gave a louis to the old woman; she wanted again to kiss my hand, but I embraced her, and we set off.' pp. 135-137.

The reader would, however, commit no inconsiderable mistake who should fancy the King to be a mere sentimental journalist. The more substantial topics of luncheon and supper occupy far more of his Royal thoughts than any other matters of contemplation. In his story, the belly maintains its ancient pre-eminence undisputed, and without a rival among the other members. The habitual train of his musings is such as the fol-

lowing. ‘ We arrived at Namur very late; and although I believe our supper at the Hotel de Hollande was not a very good one, we thought it excellent. We were disposed to be easily satisfied, and finding some tolerable Rhenish wine, we drank pretty freely of it. Altogether I never perhaps made a better or more cheerful supper. (p. 130.) On another occasion, We had a pie and some claret, but we had forgotten bread; and whilst we eat the crust with the pie, we thought of Queen Maria Theresa, who hearing one day the poor people pitied for being in want of bread, replied, “ But dear me, why do they not eat pie-crust?” We think it more likely that this should be a mistranslation, than a mistake by the King, of so noted a story. The saying was not of pie-crust, but of *Brioche*, a light cake only seen at the tables of the luxurious. ‘ *Eh! Mon Dieu, que ne mangent ils de la Brioche.*’ The old saying was, ‘ *Sine Baccho et Cerere, fugit Venus.*’ In the following passage, the happy union of Mad. de Balbi, a cold chicken and a bottle of claret, clearly typifies the above three deities in conjunction. ‘ We alighted and entered the house. Mad. de Balbi employed herself in procuring us some supper. That of the inn was good for nothing; but luckily she had a cold chicken and a bottle of claret, and we stopped. She had afterwards the goodness to give me up her bed; d’Avaray took that of her maid; and the first time, for twenty months and a half, I lay down with an assurance of not being awakened by some scene of horror.’ (127.) The following passage is of superior interest; it is indeed highly wrought; and the alternate hopes and fears, the whole play of the passions, shows the hand of a master.

‘ We resolved to stop at Marche; and we sent Sayer forward to have supper ready for us at the inn of the *poste*, which the postmaster at Emptines, who seemed to us a connoisseur in good living, had assured us was an excellent one. On our arrival in the town, we were taken to a house of good appearance, and we were rejoicing at finding so good an inn; but we were soon informed that we were at the house of an old officer of the regiment de Ligne, who had desired to receive us, because, notwithstanding the report of the postmaster of Emptines, the inn of the *poste* was good for nothing. This was a cruel disappointment for me, as I always distrust a *family dinner*. I cast a sorrowful look upon d’Avaray, whose countenance I found quite as much lengthened as my own. Our regret increased when our host, who had just got out of bed again (at nine o’clock in the evening), told us that he was quite miserable not to have been apprised two hours earlier, for he would have given us some pigeons *à la crepauline*; but his pigeons were now in the pigeon-house, and his chickens alive. He had however sent to the *poste* for a leg of

mutton, and we should have with it some sallad and some fresh eggs. These commons appeared to us somewhat short; but it was much worse, when, a moment after, his cook returned, enraged against the mistress of the *poste*, who positively refused, she said, to *lend* her the leg of mutton. He offered us, in lieu, some veal cutlets, which we accepted. We were a little uneasy as to his wine, when we discovered by chance a letter, advising him of the arrival of a cask of old wine of Volnay of a superior quality. We were delighted at this discovery, and soon turned the conversation to the subject of what wine he usually drank. He told us *vin de Bar*; and that as the last vintage in that country had failed, he had thought of sending for some Burgundy, which had arrived about fifteen days ago, but that he had been advised to let it rest a month before he tapped it. We now fancied ourselves in a true Spanish inn; and we were sorrowfully remarking how appropriate was the appellation of *Marche en famine*; but, to our great and very agreeable surprise, the supper was tolerably good; and M. Donné (the name of our host), who proved a pleasant companion, had the kindness to tap, although prematurely, his wine of Volnay, which was really very good.—pp. 137—140.

So fully impressed does his present Most Christian Majesty appear to be with the sentiments delivered by his brother in his justly admired and celebrated will, where he enjoins such of his family as may 'have the misfortune to become kings, to consider that they must devote themselves entirely to the happiness of their fellow-citizens.' The Journal from which we have been quoting, refers, no doubt, to occurrences which happened before Louis XVI.'s decease; but it was probably written after that event, and, indeed, was only published very lately, by the Royal Author, who was so much enamoured of his production as to correct the press himself.

III. *Madame d'Angoulême's Private Memoirs during her Imprisonment.*

The whole fire of the Editor's ultra-loyalty, which had been suppressed during the course of the King's work, breaks out with redoubled fury as soon as he comes to the grateful and congenial task of expounding and lauding the Duchess's journal. Its authenticity, it seems, cannot be questioned; that is to say, it was published by authority, and alleged to have been written in the Tower of the Temple. The notes from which it was composed may have been, as is asserted, written by stealth there, with pencils secreted for the purpose; but a considerable portion must have been written at leisure after the author's liberation. Indeed, while some passages are evidently copies of notes

written at the moment ; others, from their turn of the expression, are plainly retrospective.

The perusal of these pages is a somewhat melancholy task ; in spite of the efforts made at almost each pause by the Editor's violence, both in praise and vituperation, to check and even pervert the feelings of the reader. The cruelty of the treatment to which the Royal captives were exposed, unjustifiable on every account, and made still more revolting by the needless severity and insult that accompanied it, remains to this day, as indeed it will to all times, among the most unpardonable of the crimes which sullied the worst period of the Revolution. The culpable conduct of the Queen, and of the King acting under her guidance, might have justified measures of severity towards them as necessary for the safety of the new government ; and we could not greatly have wondered at some excesses being committed against the whole family in the alarm excited by an invasion of which they were the occasion, and most probably the movers. But the continued maltreatment of the victims ; the tormenting usage, above all, of the son, and the destruction of the sister of Louis XVI., are crimes not to be defended, nor even palliated, by any conceivable pretence of state necessity. Men of all parties in both countries must, therefore, unite in condemning them ; although a good deal of false colouring is no doubt given to the facts in the Duchess's Journal, and a great deal more in the Editor's notes.

The following passage, describing their mode of passing the day, is interesting ; and the allusion to the Prussians is not the only sentence in these Memoirs from which we distinctly gather that the hopes of the prisoners were centered in the success of the invasion.

‘ My father rose at seven, and was employed in his devotions till eight. Afterwards he dressed himself and my brother, and at nine came to breakfast with my mother. After breakfast, my father taught my brother his lessons till eleven. The child then played till twelve, at which hour the whole family was obliged to walk in the garden, whatever the weather might be ; because the guard, which was relieved at that time, wished to see all the prisoners, and satisfy themselves that we were safe. The walk lasted till dinner, which was at two o'clock. After dinner my father and mother played at tric-trac or piquet, or, to speak more truly, pretended to play, that they might have an opportunity of saying a few words to one another. At four o'clock, my mother and we went up stairs and took my brother with us, as my father was accustomed to sleep a little at this hour. At six my brother went down again to my father to say his lessons, and to play till supper-time. After supper, at nine o'clock, my mother undressed him quickly, and put him to bed. We then went up to our

apartment again, and the King did not go to bed till eleven. My mother worked a good deal of tapestry : she directed my studies, and often made me read aloud. My aunt was frequently in prayer, and read every morning the divine service of the day. She read a good many religious books, and sometimes, at the Queen's request, would read aloud.

‘ They permitted us to have newspapers again, that we might see the retreat of the Prussians, and the horrid libels against the King, of which they were full. One day, one of these people said to us, “ Come, ladies, I have good news for you : several emigrant traitors have been taken : if you are patriots, you must be glad of it.” My mother, as usual, made no reply, and did not even appear to hear him. Her calm contempt, and her dignified air, generally struck them with respect. They seldom ventured to speak to her.’ pp. 183–185.

The different demeanour of the King and Queen is remarkable throughout. A deputation from the Convention having waited upon him, to ask if he had any complaint to make of his treatment? his answer was, ‘ No ; while permitted to remain ‘ with my family, I am happy.’ The Queen being one day asked the same question, disdained to make any answer. The family do not seem to have been very easily pleased with the (187) services of their adherents. After Clery had been shut up with them for three months, when one should have thought any offence he might formerly have given might be forgotten, we find him represented as having merited blame, and asked pardon. (p. 188);—a circumstance which his long services afterwards, and the fate he suffered for their sake, should have induced the Ultra Duchess to suppress at this distance of time, and so many years after his death. Indeed, Clery’s exemplary fidelity even satisfies the more than Ultra zeal of the Editor, who hesitates not to ‘ place him by the side of M. Hue for his affectionate and heroic fidelity.’ (p. 168.) This praise of gratitude, except in words, must also, we fear, be withheld from the race in question ; else how can the Duchess account for suffering a man like M. Harmand to die in an hospital, whither he was conveyed, when perishing of cold and hunger in the public streets ? Though he took office under the Emperor, he had befriended the Bourbons upon the most trying occasions ; voting against the King’s death, and exerting himself, when a member of the Committee of Public Safety, as far as a man could, to relieve the Dauphin, and preserve his life. It must be remarked, too, that he was but for a season in Napoleon’s favour, being, in fact, always a Royalist ; and he lost his employment, and was reduced to a poverty, termed by the present Editor ‘ severe, but ‘ not dishonourable.’

An extraordinary importance is attached by the Editor to M. Harmand's report of what passed at his interview with the young Prince, after the fall of Robespierre. M. H. relates, that he maintained an obstinate silence, and would answer no questions, whether put in a friendly or authoritative tone; and he adds, that he was informed that he had never spoken since the day on which he was forced to sign a deposition against the Queen. The Editor represents this as undeniably true, and as something extremely striking. But we find no authority for it in the Duchess's Narrative. On the contrary, she describes his conduct and habits in terms wholly inapplicable to a state of continued and sullen silence. The following passage relates to the period of which Harmand's story is told.

'Another commissioner also, called Gomier, came to assist Laurent. He took extraordinary care of my brother. For a great while, this poor child had no light. He was dying of fright. Gomier obtained leave to give him a candle at night-fall; he even used to pass several hours with him, to amuse him. Gomier soon saw that his wrists and knees were swelled; he was afraid the joints were about to grow callous. He mentioned it to the Committee, and asked permission to take him to exercise in the garden. At first, he only removed him to the little parlour, which delighted the child, who was fond of a change of place. He soon felt the attentions of Gomier, and became fond of him: the poor boy had been long unaccustomed to kindness.' pp. 274, 275.

'During the winter, my brother had some attacks of fever. He could not be kept away from the fire. Laurent and Gomier used to coax him up to the leads to take the air, but he was hardly there when he complained of not being able to walk, and wished to go down again: he grew worse, and his knees swelled greatly.' p. 276.

It should seem, then, that the story of the persevering silence is a little bit of the romance with which our neighbours oftentimes delight to embellish incidents sufficiently interesting and attractive in themselves—forgetting the sentence pronounced upon such irregular tastes by their great critic, '*Rein n'est beau que le vrai.*'

The most interesting part of the Duchess's Journal, as might be expected, is that where she touches upon the fatal catastrophe of her parents. There is something very touching in her forlorn situation, deprived of her nearest relations one after another, at a very tender age, with the knowledge that one had been put to death, and another was lingering out a wretched existence near her, but wholly separated from her society; and in an ignorance, still more distressing, of the fate which had befallen the two whom she was most attached to, her mother and aunt. The following passage relates to a period nearly a year after the Queen's execution.

' Next morning, at ten o'clock, Laurent came into my room, and inquired politely whether I wanted any thing. He visited me three times a day, but always with civility, and, in addressing me, he did not *thee-and-thou* (*tutoyer*) me. He never searched the drawers, nor other pieces of furniture.

' At the end of three days, the Convention sent a deputation to ascertain the situation of my brother. The members were struck with pity at the state in which they found him, and directed that he should be better treated. Laurent got him a clean bed out of my room, the old one being filled with bugs and vermin: he made him bathe himself, and cleansed him from the filth with which he was covered. However, they still left him alone.

' I soon asked Laurent about what gave me the liveliest concern, the fate of my mother and aunt, of whose deaths I was still ignorant. I also asked to be permitted to rejoin my mother. He replied, with an air of concern, that my inquiries should not be addressed to him.

' Next day came some men in scarfs, to whom I repeated the same question, and they gave me the same answer. They added, that they did not see why I should wish to be released, as I seemed to be very comfortable. "*It is dreadful,*" I replied, "*to be separated for more than a year from one's mother, without even hearing what has become of her, or of my aunt.*" "You are not ill?" No, Sir, *but the cruellest illness is that of the heart.*" "I tell you again, that we can do nothing for you; but I advise you to be patient, and submit to the justice and goodness of the French people." I had nothing more to say.

' I was exposed, next morning, by the explosion which took place at the plain of Grenelle, which terrified me greatly.

' During all this time, my brother still remained alone. Laurent visited him thrice a day, but he was afraid to show him all the attention he wished, for he was closely watched. He took, however, more care of me, and I had every reason to be satisfied with him during the whole time of his attendance. He frequently inquired whether I wanted any thing, and begged me to ask for what I might wish for, and to ring my bell when I wanted any thing. He gave me back the tinder-box, and allowed me candles.' pp. 271-274.

With respect to the King's trial and death, some things are related which deserve to be known as correcting the common accounts, but some also which must be incorrect. The touching stories told of the scene with his family, and his parting from them to mount the scaffold—a scene which has been handled both in prose and verse, and represented in all sizes of pictures—turns out to be a fiction; for he never took leave of them at all. The following passage, however, which proves this, contains also a very material error.

' [1793.]—At last, on the 18th January, the day on which the sentence was pronounced, the municipal officers entered the King's

room at eleven o'clock, saying, that they had now orders never to lose sight of him for a moment. He asked if his fate was decided. They answered, No.

' Next morning M. Malesherbes came to acquaint him that the sentence had been pronounced; " but, Sire," he added, " these wretches are not yet masters, and every honest man will endeavour to save your Majesty, or to die at your feet." " M. de Malesherbes," said the King, " such proceedings would involve a great many persons, and would excite a civil war in Paris.—*I had rather die.*—You will therefore, I entreat of you, command them from me to make no effort to save me—the King of France never dies!"

' After this conference he was never allowed to see his counsel again. He addressed a note to the municipal officers, to ask to see them, and to complain of the hardship of being kept under perpetual inspection. No attention was paid to his representations.

' On Sunday, the 20th January, Garat the minister of justice, and the other members of the executive power, came to announce to him the sentence for his execution next day. My father heard it with fortitude and piety: he demanded a respite of three days, to know what the fate of his family was to be, and to have a Catholic confessor. The respite was refused. Garat assured him that there was no charge against his family, and that it would be sent out of France. The Abbé Edgeworth de Firmont was the priest he wished for. He gave his address, and Garat brought him. The King dined as usual, which surprised the municipal officers, who expected that he would endeavour to commit suicide.

' About seven o'clock in the evening we learned the sentence by the newsmen, who came crying it under our windows: a decree of the Convention permitted us to see the King. We ran to his apartment, and found him much altered; he wept for us, and not for fear of death; he related his trial to my mother, apologizing for the wretches who had condemned him; he told her, that it was proposed to attempt to save him by having recourse to the primary assemblies, but that he would not consent, lest it should excite confusion in the country. He then gave my brother some religious advice, and desired him, above all, to forgive those who caused his death; and he gave him his blessing, as well as to me.

' My mother was very desirous that the whole family should pass the night with my father; but he opposed this, observing to her how much he needed some hours of repose and quiet. She asked at least to be allowed to see him next morning, to which he consented. But, when we were gone, he requested that we might not be permitted to return, as our presence afflicted him too much. He then remained with his confessor till midnight, when he went to bed.' pp. 196—200.

Now, an important part of this narrative is most certainly contrary to the fact; it is inserted, we should suppose, long after the body of the Journal was written, possibly at the time of

publication ; and the object of the invention (for such it is) can only be to magnify the merits of Louis XVI. We allude to the alleged refusal of the King to allow an appeal to the Primary Assemblies, out of tenderness towards the peace of the capital, which might be endangered by such a proceeding. The clumsy fabrication of this has, as usually happens, overdone the matter. Instead of making the Duchess tell it as something she had heard from others, he makes her give the story as told in her presence by the King to the Queen. Now, that any such thing could have happened, is quite impossible ; for his counsel, M. Deseze, after the sentence was passed, appeared at the Bar, and stated, that ‘ Louis had given his express charge ‘ to read a letter, signed with his own hand ;’ and which, far from refusing to invoke the judgment of Primary Assemblies, runs in these words, ‘ I owe it to my honour, I owe it to ‘ my family, not to subscribe to a sentence which declares me ‘ guilty of a crime of which I cannot accuse myself. In consequence, I *appeal to the Nation*, from the sentence of its representatives ; and I commit, by these presents, to the fidelity of ‘ my defenders, to make known to the National Convention this ‘ appeal, by all the means in their power, and to demand that ‘ mention of it be made in the minutes of their sitting.’ (Signed) ‘ Louis.’ His counsel were accordingly heard in succession in support of the appeal ; and that no doubt may remain of this step having had the King’s sanction, M. Malesherbes, in his narrative of what passed between that prince and his advocates, plainly intimates, that he went from the Bar, ‘ where all ‘ three had spoken, and urged an appeal to the people,’ to report what had passed. It is true, he adds, that when he told him of the disposition which he perceived among the people in the streets, to attempt a rescue by means of violence and insurrection, and that many had offered to save him if their own destruction could accomplish it, he desired those persons might be told, that he would not suffer any blood to be shed in such an attempt ; and added, that he had refused to allow it when he might have been saved by such means ; plainly intimating, that he now regarded such an attempt as desperate. But a perfectly different turn is given to this in the Duchess’s narrative, both where she relates (or some one for her) what the King told the Queen, and where she alters the whole sense of what really did pass between the King and his advocate.

And here we cannot avoid noticing the incorrectness of the commentator, in his remarks upon the conduct of the King’s and Queen’s advocates. The extravagant praises which he bestows on those who ventured to defend these illustrious parties,

are almost as much overdone as his invectives against M. Target, a wretched preacher of law, and liberty, and liberality; who, we are told, 'had the baseness to decline this honourable, and, to a man of professional feeling, indispensable duty.' M. Target, as is well known, declined the arduous task on account of his 'age and infirmities.' Indeed, the French Bar never, throughout the worst times of the Revolution, showed any backwardness to meet the risks attendant upon a faithful and fearless discharge of their professional duties. In the reign of terror, all the victims of the Revolutionary Tribunal were defended by counsel; and no one is said to have suffered for thus exercising the functions of his calling. Such bodies, indeed, being pretty well resolved on the decision they are to give before the trial, are as little likely to be enraged at the advocates who appear for the accused, as they are to be obstructed in the pursuit of injustice by their exertions. The praise of M. Malesherbes is, in one particular, more than might have been expected from this Editor. 'Illustrious by his life, and even, if possible, more so by his death, which was as heroic as that of Sir Thomas More,' seems a lavish measure of eulogy for one who, we are afterwards told (p. 284), was a professed infidel.

This writer certainly neither praises nor blames by halves, and not often with a felicity proportioned to his vehemence. His zeal is, indeed, very rarely according to knowledge; and we have seldom, out of a common party paper, seen any one who exposed himself more to exposure and retorts, by his inconsistencies and heedless violence. We must admit, no doubt, that Buonaparte is always to be bitterly reviled, 'in season and out of season:' but surely he cannot be much charged with having preferred men because of their jacobinism and atheism; yet we find a certain Dupont commemorated, who 'was a regicide, and boasted in the tribune that he was an atheist;' wherewithal our judicious Editor must add, 'these two qualities could not fail to recommend him to Buonaparte, who employed him.' The venerable, gallant, and amiable La Fayette is, in the space of seven lines, called somewhere about ten coarse names; the kind of figure which this author mistakes for eloquence, in common with a set of female rhetoricians who inhabit the left bank of the Thames, near London Bridge, and there keep their academy.

The adepts of this school are found, as we have heard, fully more unpleasant friends than adversaries; and truly, our Editor seems the very character prayed against in the noted Spanish proverb: What, for instance, can be less grateful to the most legitimate Emperor of all the Austrias, than this way of men-

tioning Robespierre's project of marrying the French princess! — 'He had the *audacity* to raise his thoughts to the hand of the young princess.' — 'A dislike to preserve *any trace of this surprising insolence*, induced the first editor to omit this passage.' (p. 267.) Yet Robespierre was at the head of the government, and the Duchess was in prison, and utterly helpless; far more so than the Archduchess of Austria was some years after, when such *audacity* was successful, and such *insolence* ceased to surprise. Again, we find a piece of composition in p. 213, which will probably be termed rhodomontade in some parts of the British dominions. A search of the captive females had been ordered; and the expression is, '*les fouiller à discretion*.' — 'This phrase' (says the Editor) is, thank Heaven! 'untranslatable into our language: None but the monsters of the French age of liberality and reason could have thought à '*fouiller à discretion des femmes*.' Indeed! Not even in the customhouses which stud the legitimate frontiers of Austria and Prussia? But we may find the thing without the name. Did our Editor ever hear of such places as St Helena? And there may be countries where ten thousand times worse than the thing, name and all, shall be found rank enough; aye, and perpetrated by those before whom this ranting Ultra would fain be permitted, crawling on his belly, to lick the dust. We speak not of the realms which our *magnanimous* Alexander blesses with the delights of his universal benevolence, including Siberia, the knout and the knife, but only of a nearer and more civilized region,—for example, Milan. Talk, indeed, of our language having no name for the act of outrage on female delicacy by barbarous treatment—unmanly insult—indecent prying—disgusting exposures—hired treachery—suborned falsehood! Our language—the tongue spoken by the King, by the Lords, and by the Commons of our country! Truly this editor has but two positions to choose between—the height of ignorance or of audacity. Nay, the horror with which he regards all the treatment of Marie-Antoinette, is somewhat unthinking. 'The tribunal that murdered the Queen,'—'the vile and ferocious wretches, who did not take the interest in the Queen's fate which all honest men did.' The indignation freely expressed at the more atrocious charges brought against her—had possibly been more prudently spared in our age and nation. At least this may be said for the oppressors of the French Queen, that they openly and fairly avowed their republicanism; they proclaimed, with a loud and manly voice, as well as by their blood-stained hands, an implacable hatred of Royalty; they never whined out the cant of devotion to the

Throne and the Altar, while they were undermining the one by their greedy ambition, and polluting the other by their hypocritical profligacy; they professed to choose their victim because she had worn a crown, and because they were resolved that no one should wear it after her; and they disdained to shed crocodile tears over the voluntary work of their own hands. It has sometimes been said of those men who destroyed the French Queen, that they had every vice but avarice and hypocrisy. This praise, such as it is, belongs to *them*. They are men who have not in all things found servile imitators.

ART. VI. *Reasons for the Immediate Repeal of the Tax on Foreign Wool.* By JAMES BISCHOFF. 3d edition. pp. 47. London, 1820.

UP to a very recent period, the woollen manufacture was of greater importance and value than any other branch of our national industry; and though now surpassed by that of cotton, it still continues to be one of the principal sources of our wealth and power. In his elaborate and valuable work on Insurance, Sir F. M. Eden estimates the value of the manufactured woollen goods annually consumed in Great Britain, at *eleven* millions; and if to this we add *seven* millions, which is about the average value of those exported, the total value of the annual produce of this manufacture will be about EIGHTEEN millions. The value of the raw material has been estimated by Sir Frederick and others, at *one-third* of the total value of the goods, or at *six* millions, leaving a sum of *twelve* millions as the aggregate amount of profits and wages. It is difficult to ascertain the precise proportions in which this sum is divided between capitalists and labourers. We believe, however, that we shall not be far wrong if we suppose the profits of the manufacturers, and the sum necessary to indemnify them for the wear and tear of machinery, and the waste of capital in general, to amount together to 18 per cent. of the 12 millions, or to 2,160,000*l.*, leaving 9,840,000*l.* as the total amount of wages. There is a considerable discrepancy in the accounts of the rate of wages earned by the workmen. We have, however, been assured, on what we reckon extremely good authority, that 15*l.* may be taken as a fair average of the annual wages obtained by the various descriptions of individuals in this department of industry. Now, if we divide the gross amount of wages, or 9,840,000*l.* by this sum, we get 656,000 as the total number of workmen. And, considering the comparatively limited extent to which children

are employed, we may, on the most moderate hypothesis, double the number of workmen to get the whole number of persons supported by the wages of labour in the woollen manufacture. Exclusive, therefore, of the master manufacturers, or of those who live on the profits of stock, it is plain that no fewer than 1,100,000 or *one-thirteenth* part of the inhabitants of Britain are supported by the woollen manufacture—a manufacture, it must be recollected, of which more than *one-third* of the produce is regularly exported to other countries.

Most of the witnesses examined at the Bar of the Houses of Lords and Commons in 1800, on the question of allowing the free exportation of wool to Ireland, concur in representing the value of the woollens annually manufactured, and the number of persons employed, as considerably greater than we have now stated. But the numbers we have now given, though greatly within the mark, are more than sufficient to demonstrate the paramount importance of this manufacture, and the extreme impolicy of any measure having a tendency to endanger so fruitful a source of employment and of wealth.

Instead, however, of continuing that protection and favour to this manufacture which it had enjoyed for centuries, and instead of attempting to relieve it from the various trammels and restrictions which the friendly but mistaken zeal of a less enlightened age had imposed, the late Chancellor of the Exchequer proposed in 1819, that the duty of about $\frac{1}{2}$ d. per lib. (7s. 11d. per cwt.) on all foreign wool imported, should be increased to 6d. per lib. ! The history of this increase of duty is not a little curious and instructive. The augmentation of the revenue was its apparent object; but its real object was to check the importation of foreign wool; and thus, by increasing the demand for, and consequently the price of British wool, to operate as a boon to the agriculturists, who had become excessively clamorous about the competition of the foreign wool growers. It has been very generally estimated, that the quantity of wool annually raised in Great Britain, amounts to about 144 millions of pounds; but this is probably exaggerated; and taking it only at 100 millions, if the increased duty on foreign wool had added, as the agriculturists confidently anticipated, 5d. per lib. to the price of British wool, it would have transferred a sum of no less than 2,083,000*l.* Sterling a year to their pockets, from the pockets of the domestic and foreign consumers of our woollen manufactures. The prospect of realizing so large a sum,—for it is impossible they could have had any other inducement,—made the agriculturists press ministers to impose the duty in question. Nor is it any longer a secret that

its imposition actually formed the stipulated price paid by Mr Vansittart, for the unnatural support given by the landed interest in Parliament, to the precious scheme introduced by him in 1819, for raising three millions of new taxes ! Among other items, these taxes embraced an additional duty on malt ; and it deserves to be remarked, as indicative of the spirit of the parties, that only a very short period was suffered to elapse after the agriculturists had succeeded in getting the tax laid on wool, before they turned round on the minister, and forced him to reduce the malt duty. And while they have ever since successfully resisted every attempt to procure a repeal of the wool tax, they have obtained the repeal of the agricultural horse tax, and of the additional leather tax, just because they fancied they pressed with peculiar severity on themselves ! Such is a true account of the wool tax. But its supporters in Parliament were too cautious to state the motives by which they were actuated. They contended that the proposed duty was no more than a fair compensation to the agriculturists for the loss they sustained by the restriction on the exportation of British wool ; and they farther contended, that it was quite visionary to suppose that our superiority in that manufacture could be in the least degree endangered by so small a tax. For the reasons already stated, these arguments appeared satisfactory to a large majority in both Houses of Parliament. The duty was in consequence imposed ; and the official accounts we shall immediately lay before our readers, show that the foreign woollen trade has since gradually and progressively declined !

It was easy, indeed, to foresee this decline from the beginning. We are far from possessing the same decided ascendancy in the woollen manufacture, that we possess in the cotton and hardware manufactures. It is an undoubted fact, that the French, Prussians, and Saxons, manufacture fine cloths of a superior quality to any that are manufactured in England. Mr Jacob, who will not certainly be suspected of being an alarmist, or of representing the improvements made by foreigners in a too favourable point of view, has given some information with respect to the Prussian woollen manufacture, in his account of his Travels in Germany, published in 1820, which bears directly on the present question, and is of very great importance.

‘ The increase of Merino sheep,’ says Mr Jacob, ‘ has given, and still continues to give, a great stimulus to the fine woollen manufactures, especially to those in the newly acquired provinces bordering on France, where some of the best fine woollens that Europe can exhibit are made. In the department of the Roer, or as it is now called, of Aachen, just within the boundary line that separates

the Prussian dominions from France, the towns of Eupen, Aachen, Montjoie, Stolberg, and Malmedy, prepare from the native wool the finest cloths and cassimeres, the annual value of which is at present about 1,250,000*l.* Sterling; and they give employment to 50,000 workmen, as well as to *every kind of machinery that has been invented in England or elsewhere.* The fabrics have been much improved; the manufacturers contend, that their cloths are superior in quality, and lower in price, than any that we can make; and, at the last fair of Leipsic, where the buyers and sellers met in great numbers, in consequence of a dispute on the subject, a committee was appointed, who were neither interested in the manufactures of England, nor in those of the Rhine, but who, as purchasers, may be presumed to be both competent and impartial judges, to examine and report on the best cloth in the city, from the two countries. Their decision, I am sorry to say, *was unanimously in favour of the cloths from Eupen.* The encouragement given to them by the merchants from Greece and from Turkey, who meet the manufacturers at Leipsic or at Frankfort on the Oder, has acted as a stimulus to greater exertions, and to a greater extension of their several establishments. The fine cloths of Eupen appear to me not to be sheared so close as ours, or to have more wool raised by the teazles; so that, though they do not look so beautiful when new, they can be worn longer before they become threadbare.' p. 246.

Of all the continental manufacturers, the competition of those of Prussia and Saxony is the most serious to this country. We find their woollens and linens in every quarter of the globe. They come into contact with us in all the markets of the Continent, and in those of North America, Brazil, and China. Neither is it merely in the finer descriptions of woollen goods that we have to fear their competition. They are gaining fast upon us in those of an inferior description; and, as the tax chiefly operates to raise the price of our coarser cloths, it has given a proportional advantage to those who manufacture similar articles on the Continent. Independently, however, of this circumstance, it is certain that German woollen goods had begun, previously to the period when the tax was imposed, to enter into a successful competition with ours in foreign markets. In proof of this, we may refer to the evidence of Mr Bainbridge, who is a very extensive general merchant, before the Committee of the House of Commons, appointed, in 1820, to inquire into the state of the foreign trade of the country. On Mr B. being asked whether he thought that an increase in the means of paying for our manufactures would produce an increased consumption of them in Russia, Sweden, and Prussia, he answered:—'I believe the woollen manufactures in Prussia are in such a state as to be able to compete with us completely:

‘ I speak of it particularly, because we are in the habit of having transactions with the United States of America ; and I find, that a very considerable proportion of fine woollens, and of coarse woollens and stuffs, are absolutely shipped from the Netherlands, and from ports contiguous, part of which I understand to come from the interior of Germany, and from Saxony in particular ; so that a portion of the trade which we have been in the habit of transacting with the United States, is finding its way from the north of Europe. I therefore conceive, that their manufactures are competing very much with the manufactures of this country ; and consequently, they would not come to us to receive a supply of those articles which they can purchase from their own manufacturers at home.’—(*Commons Report, printed 9th March 1821, p. 48.*)

In corroboration of what Mr Bainbridge has here stated, we have learned, from unquestionable authority, that some of the first English manufacturers have lately received orders, from their correspondents in Russia, to discontinue sending them fine cloths, because they could procure them of as good a quality, and at a much lower price, from Prussia and Saxony.

Such was the nature of the foreign competition with which the English woollen manufacturers had to contend, when Mr Vansittart took it into his head to lay a tax on the raw material used by them ! He could not possibly be ignorant of the very great improvement and extension of the manufacture carried on by their rivals in Germany : For a Report is made every four years to the Prussian government on the state of agriculture and manufactures ; and in this Report, which is published, the extent of every separate branch of manufacturing industry, and every new discovery and improvement made in it, are particularly detailed. Although, therefore, Mr Vansittart had not deigned to consult an English manufacturer on the subject of his tax, he might have learned its impolicy and ruinous tendency from this *official* document. But the right honourable gentleman was determined to have a surplus revenue of *five* millions placed at the disposal of ministers ; and, to effect this darling object, it was necessary to sacrifice the interests of the woollen manufacturers, or of 1,100,000 of the inhabitants of Britain, to procure the parliamentary support of a few rapacious and mercenary landlords !

Neither is it true, as was contended in the House of Commons, that the burden imposed by this tax is only of trifling amount. On the contrary, it is most oppressive. The average annual importation of foreign wool, for the ten years previous to 1819, amounted to about *eleven* millions of pounds, more

than a third of which was sold at and under 2s. 6d. per pound, and the remainder at about 5s. per ditto. It is clear, therefore, that the duty of 6d. per pound makes an addition of no less than *twenty* per cent. to the price paid by the English manufacturer for all his coarse wool imported from abroad, and of *ten* per cent. to the price of the finer parcels. Now, considering the extent to which foreign competition had already been carried, and considering also that the foreign manufacturers were *totally exempted from this burden*, it must have been evident, on the slightest reflection, that the effect of the tax could not be otherwise than injurious; and that, if it did not immediately drive the English manufacturer out of the foreign market, it would, by giving so great an advantage to the foreigner, force him gradually to contract his exports to the markets open to the competition of both parties. And such has really been the case. For, while the exports of those species of goods made exclusively of *long* or English wool, and which are not affected by the tax, have rather increased since 1819, the exports of those made wholly or partly of *short* wool, in the manufacture of which foreign taxed wool is used to a greater or less extent, have alarmingly declined. The subjoined *official* accounts will render this obvious:—

Account of the declared value of the Woollen Goods wholly manufactured from *short* wool, and principally affected by the wool tax, exported in the years ending 5th January

1816	.	.	L.7,388,479	1820	.	.	L.4,361,334
1817	.	.	5,872,191	1821	.	.	3,742,059
1818	.	.	5,498,250	1822	.	.	4,432,072
1819	.	.	5,829,573				

Account of the declared value of Woollen Goods partly manufactured from *long* and partly from *short* wool, and which are partially affected by the wool tax, exported in the years ending 5th January

1816	.	.	L.664,543	1820	.	.	L.391,978
1817	.	.	462,724	1821	.	.	328,180
1818	.	.	506,062	1822	.	.	388,843
1819	.	.	514,532				

Account of the declared value of the Woollen Goods wholly manufactured from *long* or English wool, and which are not affected by the wool tax, exported in the years ending 5th January

1816	.	.	L.2,167,944	1820	.	.	L.2,146,381
1817	.	.	2,069,612	1821	.	.	2,208,925
1818	.	.	1,954,615	1822	.	.	2,480,521
1819	.	.	2,603,354				

Account of the total declared value of all sorts of Woollen Goods exported in the years ending 5th January

1816	. .	L.10,200,926	1820	. .	L.6,899,693
1817	. .	8,404,527	1821	. .	6,279,164
1818	. .	7,958,927	1822	. .	7,395,185
1819	. .	9,047,959			

These statements furnish an unanswerable demonstration of the impolicy and injurious effects of this tax. They show, that our foreign woollen trade had begun to decline previously to its imposition; that this decline has since been greatly accelerated; and that it has almost wholly taken place in those descriptions of goods which are affected by the tax. Neither must it be forgotten, in estimating the effects of this tax, that the demand for British woollen goods has been of late vastly extended, both in the East Indies and China; and that, but for the opening of this new market, to which foreigners have not hitherto had access, the injury inflicted on our foreign woollen trade by the tax would have been still more striking and obvious. But, independently altogether of this circumstance, we doubt whether any such clear and decisive evidence to prove the injurious nature of a tax as is contained in the previous statements has ever been laid before the public. It can no longer be questioned, that a branch of industry, emphatically called by Lord Hale ‘the basis of all our commerce,’ and which feeds and clothes a *thirteenth* part of the whole population of Great Britain, has been seriously injured; and that this injury has been mainly occasioned by the imposition of a duty on the raw material which, when greatest, has barely produced 400,000*l.* a year! We think too favourably of Messrs Robinson and Huskisson, to suppose it possible that they will allow the foreign woollen trade of the country to be paralyzed, and eventually destroyed, for the sake of this miserable pittance. Even the paternal feelings of the Noble Lord by whom the tax was imposed, cannot be allowed to stand in the way of its repeal. To maintain it, would not be to sacrifice the goose for the sake of the golden eggs, but for the sake of the offal she has picked up.

That the agriculturists will continue to oppose the repeal of the wool-tax, may be expected. These gentlemen seem to think that they possess an undoubted right to stuff their own pockets at the expense of their neighbours. This, however, is not quite so easy a matter as they suppose. It is to no purpose that they make laws to monopolize the supply of corn and wool, and to force up their prices, unless they can, at the same time, secure an ample supply of customers to take them off at the high prices. But this is what they neither have done, nor can do. So far, indeed, from the wool-tax having been of any advantage to

them, its effect has been distinctly and completely the reverse. By paralyzing the energies of the manufacturer, and narrowing the foreign demand for his produce, it has really operated to lessen the demand for British wool, and to *sink*, not to raise, its price. ‘It is a fallacy and an absurdity,’ as Sir Matthew Decker has conclusively observed, ‘to think to raise or keep up the value of lands by oppressions on the people that cramp their trade; for, if trade declines, the common people must either come upon the parish, or fly for business to our neighbours: In the first case, they become a heavy tax on the rich, and, instead of buying the produce of the lands, must have it given them; and in the second, when the consumers are gone, what price will the produce of lands bear?’—(*Essay on the Causes of the Decline of Foreign Trade*, p. 57, ed. 1756.)

The woollen manufacturers have had several meetings with Ministers on the subject of this tax. At the last meeting, which took place in June, after a good deal of discussion, the Earl of Liverpool stated, that *his Majesty's Ministers would consent to the repeal of the tax, provided the manufacturers would consent to the free exportation of British wool!* To understand the nature of this singular condition, it is necessary to bear in mind, that the woollen manufacture is divided into two great and totally distinct branches—that of cloths, and that of worsteds. The cloths are prepared exclusively from *short* wools, and the whole foreign wool imported into the country is used in their manufacture. The worsteds, on the other hand, are prepared exclusively from *long* English wool, without any intermixture of foreign. The repeal of the tax is thus an object of the greatest importance to the cloth manufacturers, without being of any consequence whatever to the worsted manufacturers; while, on account of the presumed scarcity of long wool on the Continent, the restriction on exportation is supposed to be of considerable advantage to the latter, without being of the least advantage to the former! To make the consent of different classes of manufacturers to a measure with respect to which their interests are so widely different, a *sine qua non* to the repeal of the tax on wool, is just about as absurd as if Government had told the private traders in 1813 that the consent of the East India Company was quite indispensable to the giving a partial opening to the trade with the East! The duty of Ministers is clear. The wool-tax has been proved to be unproductive, and extremely injurious to one of the principal manufactures of the country. Its repeal is, therefore, imperiously required; and it would be most jesuitical and unworthy of the Government of a great nation, to attempt to evade the performance of an act demanded

alike by sound policy, and a just regard to the best interests of the country, by making it depend on the impracticable condition of those who are not interested in it voluntarily consenting to give up what they consider an advantageous monopoly.

But without waiting for this consent, there can be no question that Ministers would do well to abolish the restriction on the free exportation of British wool, as well as the tax on the importation of foreign wool. This restriction was enacted in a comparatively barbarous age, before the true principles of commercial intercourse were well understood; and it is undeniably certain, that every such restriction, whether on exportation or importation, has a tendency to force the capital and industry of the country into employments where they are necessarily less productive of advantage than they would be, were it left to the sagacity of individuals to find out those that are naturally most beneficial. It would, moreover, be easy to show that, in point of fact, the worsted manufacturers have never reaped any real advantage from this restriction; although, had such been the case formerly, the late improvements in machinery must now have rendered it quite inoperative. Up to 1818, or thereabouts, no wool of less than *five* inches in length, or, as it is technically termed, in the *staple*, could be made into worsted; but, since then, machinery has been so much improved as to enable worsteds to be manufactured from wool of only *three* inches in length. The long wool of the country has thus been virtually about *doubled*; and as the same machinery is now used in Prussia and France, a proportional increase must have taken place in the Continental long wools. In these circumstances, it is quite absurd to suppose that the smallest injury could arise to our worsted manufactures by allowing the freest exportation of British wool; while, by repealing this restriction, the only ground on which it is possible to frame any thing like an excuse for the wool-tax, would be done away.

But whatever may be done with the restriction on exportation, it is indispensable that the wool-tax should be repealed. We must not forget that the cloth manufacture is more than *three* times the value of the worsted manufacture; and it would be downright madness to sacrifice it, either for the sake of preserving an imaginary advantage to the latter, or for a wretched pittance of 300,000*l.* or 400,000*l.* a year!

ART. VII. *Thoughts on the Necessity of Improving the Condition of the Slaves in the British Colonies, with a view to their ultimate Emancipation, and on the Practicability, the Safety, and the Advantages of the latter Measure.* By T. CLARKSON; Esq. Second Edition, corrected. 8vo. pp. 60. London, Hatchard. 1823.

Few things could have given the friends of justice and humanity more gratification, or less surprise, than to find the excellent and enlightened man whose name recommends this very able Tract, coming forward, from the repose to which he had so well entitled himself by the useful labours of his early life, and devoting what remains of his days (may they be many as they are honourable ¹) to the final triumph of a cause, in the history of which his fame will be held in lasting remembrance,—second to that of Wilberforce alone. He has been labouring with his wonted cheerfulness and perseverance, not only in the composition of this admirable work, but in traversing the country to aid, by his presence and councils, the diffusion of full information, upon a question which ignorance alone can incumber with any difficulty or doubt. The formation of a Society for this purpose has been already mentioned by us; its members have increased rapidly since that time; and it now has branches in almost every part of the Island, more or less closely connected with the parent stocks at Liverpool and London. The principle upon which they everywhere proceed, is that which we have now broached—that a fuller knowledge of the subject is alone wanting to an unanimous concurrence of opinion, and complete practical success. A surer indication of conscientious conviction cannot be imagined, nor a better earnest of ultimate victory be desired, nor a stronger title to the advanced. The friends of the oppressed only say to the community at large, ‘Examine and judge for yourselves—if we are right, the inquiry will convince you; and if you are convinced, we rely upon your cooperation.’ Let men be well assured that this is a test which no system, ecclesiastical or civil, nor any line of policy, nor any particular measure, will ever venture on if conscious of wrong, or can ever have the least reason to dread, unless it is undeserving of support from the good and the wise. The golden rule is this—to shun whatever shuns the light.

When the means are considered by which the Negroes were carried over to the American Settlements, and when it is further recollected by what measures of violence they are there kept in a state of bondage, as alien to their own nature and

the enforcing it is repugnant to the moral and religious duties of their task-masters, little wonder can be felt that many enlightened and virtuous men have regarded such a condition with a feeling of impatience; have cried out against it as a grievous enormity; and refused to reason calmly upon a matter which the instinctive sense of right and wrong seems capable of deciding without any appeal to argument. Good men, who have differed on all other subjects, seem to have felt alike on this. When one who had written an elaborate work against the Slave Trade, sent it to Mr Fox, he happened, from some expression in the letter, and before reading the book, to mistake the object of it, and to suppose that it was designed to prove the national advantages of the traffic. 'Such (he replied) is my hatred of the Slave Trade, that if you were to convince me of its expediency, I should only hate it a thousand times worse.' Dr Johnson went further, and with more practical notions. We are told by Bryan Edwards, that a frequent toast of his, in the hearing of his Black servant, was, 'A speedy insurrection of the slaves in Jamaica, and success to them!' Boswell tells us, that he once gave this toast, with a slight variation, 'when in company with some very grave men at Oxford.' 'Here,' said he, 'is to the next insurrection of the Negroes in the West Indies.' *

Now, let it not be supposed that we shrink from the most rigorous scrutiny of the whole question, which the most argumentative and cold-hearted logician can desire, when we observe, in passing, how very reasonable, as well as natural, such summary views of the subject are. Can any argument be want-

* *Life*, iii. 219. His Biographer, indeed, protests vehemently against such sentiments; and avows, with even less than his usual judgment, his veneration for the long-established '*status of slavery*'—nay, for the Trade itself, to abolish which, he says, would be 'to shut the gates of mercy on mankind!!'—meaning, as he distinctly states, the African portion of mankind, 'whom, saith he, it saves from intolerable bondage in their own country, and introduces into a much happier state of life!' In his great alarm lest the 'wild and dangerous attempt to abolish so very important and necessary a branch of commercial interest' should succeed (for he has the White as well as the Black interest in his view), he derives a mighty consolation from the reflexion that, 'whatever may have passed elsewhere concerning it, the House of Lords' (so he prints their Lordships) 'is wise and independent,' (*ib.* p. 222)—with more matter, which now-a-days would be of dangerous import to a publisher, and expose him to the risk of being punished perhaps by both Houses—the 'Lower' taking it as serious,—the 'Wise' as satirical.

ing to prove, that one man has no right to steal another, and then, by force, keep possession of him and of his children for ever? or that, admitting some claim of property could be set up to the father, as from his own voluntary sale of himself, the unborn child, at least, has a right to freedom? Whoever requires such proof, would also demand reasons for abolishing cannibalism, or punishing murder. Indeed, if reasons were given, he would probably be found inaccessible to them. A voyage to the West Indies, or to the Western Coast of Africa, would not convince him; he must go to the north of that continent,—to the states of Tripoli or Algiers, and view the very trifling and inadequate retaliation there practised upon Europeans. It is then possible that he might change his opinion upon the point of lawfulness; but his conversion would, after all, be rather through the appeal made to his feelings, when the case of the slave became his own, than through any elaborate process of demonstration.

Whoever regards the relative numbers and situation of the Whites and Blacks in the West Indies, must at once be prepared, either to assert that there is no such thing as human rights, and indeed no difference between right and wrong,—or to admit, that there can be but one conceivable justification for the continuance of the slave system—the unfitness of the slaves themselves to change their state suddenly, and become free citizens. From hence results the inference, that their immediate liberation would be injurious to themselves as well as to their masters; and that, after doing them irreparable injury, by reducing them to so cruel and unnatural a state, we have no right to aggravate their wrongs by striking off their fetters before they are prepared to move about in freedom. Any considerations of expediency, as far as the master is concerned, can weigh nothing in deciding the question of right; but we have a right, no doubt, to retain the Negro in slavery, if his own safety absolutely requires it. This only tenable ground of defence must, however, on all hands, be admitted to be slippery and dangerous, and situated on the brink of the most fatal errors. We must therefore take heed to our footing while we stand upon it, and, above all things, beware that we do not fall into the position on which it so closely borders—the stronghold of those who used even to defend the African traffic itself as beneficial to the Africans. Happily there is a principle which guides us in safety and consistency through this whole question, which reconciles, too, all conflicting interests, and is alike conformable to reason and to feeling—alike suggested by views of policy and of right. If the slaves can be gradually emancipated by preparing them for liberty, and facilitating their ac-

quirement of it,—and if their children, at all events, may be made free, under such temporary restrictions only as are necessary to secure for them due care during the years of infancy,—the whole slave population will immediately be improved in its condition; and a period will be fixed, beyond which the evils of slavery must entirely cease to vex mankind. We cannot better close these introductory remarks than by the following passage, which forms the Preface to the work before us.

‘ It is possible there may be some, who, having glanced over the title-page of this little work, may be startled at the word Emancipation. I wish to inform such, that Mr Dundas, afterwards Lord Melville, an acute man, and a friend to the planters, proposed this very measure to Parliament in the year 1792. We see, then, that the word Emancipation cannot be charged with novelty. It contains now no new ideas. It contains now nothing but what has been thought practicable, and even desirable to be accomplished. The emancipation which I desire is such an emancipation only as I firmly believe to be compatible not only with the due subordination and happiness of the labourer, but with the permanent interests of his employer.

‘ I wish only to say, in case any thing like an undue warmth of feeling on my part should be discovered in the course of the work, that I had no intention of being warm against the West Indians as a body. I know that there are many estimable men among them living in England, who deserve every desirable praise for having sent over instructions to their agents in the West Indies, from time to time, in behalf of their wretched Slaves. And yet, alas! even these, the Masters themselves, have not had influence enough to secure the fulfilment of their own instructions upon their own estates! nor will they so long as the present system continues. They will never be able to carry their meritorious designs into effect against Prejudice, Law, and Custom. If this be not so, how happens it that you cannot see the Slaves, belonging to such estimable men, without marks of the whip upon their backs? The truth is, that so long as overseers, drivers, and others, are intrusted with the use of arbitrary power, and so long as Negro-evidence is invalid against the White oppressor, and so long as human nature continues to be what it is, no order from the Master for the better personal treatment of the Slave will or can be obeyed. It is against *the system*, then, and not against the West Indians as a body, that I am warm, should I be found so unintentionally, in the present work.

‘ One word or two now on another part of the subject. A great noise will be made, no doubt, when the question of Emancipation comes to be agitated, about the immense property at stake. I mean the property of the Planters, and others connected with them. This is all well. Their interests ought undoubtedly to be attended to. But I hope and trust, that, if property is to be attended to on one

side of the question, it will be equally attended to on the other. This is but common justice. If you put into one scale the gold and jewels of the Planters, you are bound to put into the other the liberty of 800,000 of the African race; for every man's liberty is his own property by the laws of nature, reason, justice, and religion; and, if it be not so with our West Indian Slaves, it is only because they have been, and continue to be, deprived of it by force. And here let us consider for a moment, which of these two different sorts of property is of the greatest value. Let us suppose an English gentleman to be seized by ruffians on the banks of the Thames (and why not a gentleman when African princes have been so served?) and hurried away to a land (and Algiers is such a land, for instance), where white persons are held as Slaves. Now, this gentleman has not been used to severe labour (neither has the African in his own country); and being therefore unable, though he does his best, to please his master, he is roused to further exertion by the whip. Perhaps he takes this treatment indignantly. This only secures him a severer punishment. I say nothing of his being badly fed, or lodged, or clothed. If he should have a wife and daughters with him, how much more cruel would be his fate! to see the tender skins of these lacerated by the whip! to see them torn from him, with a knowledge that they are going to be compelled to submit to the lust of an overseer! and no redress! "How long," says he, "is this frightful system, which tears my body in pieces, and excruciates my soul, which kills me by inches, and which involves my family in unspeakable misery and unmerited disgrace, to continue?"—"For ever," replies a voice suddenly: "for ever, as relates to your own life, and the life of your wife and daughters, and that of all their posterity." Now, would not this gentleman give all that he had left behind him in England, and all that he had in the world besides, and all that he had in prospect and expectancy, to get out of this wretched state, though he foresaw, that, on his return to his own country, he would be obliged to beg his bread for the remainder of his life? I am sure he would. I am sure he would instantly prefer his liberty to his gold. There would not be the hesitation of a moment as to the choice he would make. I hope, then, that if the argument of property should be urged on one side of the question, the argument of property (liberty) will not be overlooked on the other, but that they will be fairly weighed, the one against the other, and that an allowance will be made as the scale shall preponderate on either side.

It is very material here to remark, that Mr Clarkson, in the outset of this passage, has greatly underrated the important argument to be drawn from authority. Mr Buxton justly observed, in the able and convincing speech with which he prefaced his motion on the 15th May, that 'of cautious men, the most cautious, Mr Dundas, and the least addicted to change, Mr Burke, each of them prepared, and the one introduced,

‘ into Parliament, a bill for the emancipation of the Negroes, which, if it had passed, would have been in operation twenty-three years ago, and would have liberated, by this time, half the slaves in the West Indies.’ We may add, too, the repeated avowal of Mr Pitt, that every man, who well considered the subject, must look forward to the abolition of slavery as the ultimate consequence of abolishing the slave trade. Indeed, he always treated the notion of the Negroes remaining in perpetual bondage, as extravagant and intolerable. Nor let it be said, that the promoters of the abolition ever deceived the country, the legislature or the planters, by pretending that they were only at war with the traffic. They expressed their hopes that an interruption of the supply of slaves would benefit the unfortunate beings already in the colonies, by making it the interest of the masters to improve their condition; but it was always stated, that one of the best consequences of their improvement would be, their preparation for personal liberty; and total emancipation was distinctly pointed out as the concluding stage of a progress, the first step of which should be, humane and fatherly treatment, and the next, attaching the bondsman to the soil he cultivates. The language held in 1807, when the great triumph of humanity and justice was gained, deserves to be recited as a convincing proof of our position. On the last great struggle which the friends of that cause had to make, when the crime of man-stealing was put down by an unprecedented majority of eighteen to one, only sixteen out of three hundred, now clinging to an enormity which, until an honest and firm administration set themselves against it, had been always victorious. Sir Samuel Romilly delivered one of the most eloquent speeches ever heard within the walls of Parliament, at once pronouncing the doom of the guilty commerce, and the happier fate that awaited its victims and their descendants, whose chains he then regarded as broken asunder. It is clear, that he regarded the two events, abolition and final emancipation, as inseparably connected; and he seems to have felt the impossibility of treating the two subjects otherwise than as parts of one question. ‘ I hope,’ said he, ‘ that the time is not very distant when the horrors we now witness will be endured no longer, and when our posterity shall have to compare these traditionary crimes with the happier state of society before them; when they shall behold science penetrating into the yet dark and uncultivated deserts of Africa; when commerce shall be cooperating to soften the manners of the yet barbarous inhabitants; and when the West Indies shall no more be cultivated, as now, by wretched slaves, but

‘ by happy and contented labourers—by persons who are permitted to enjoy the benefits of those laws and that government under which they live. Many members of this House may yet live to witness all these benefits; and to them is reserved, perhaps, the greatest happiness which, in this state of existence, we are permitted to enjoy. What a delightful reflection it is to think that generations yet unborn will bless our memories as the authors of their liberty and happiness!’ * Nor were these views confined to expressions of feeling, and mere speeches in debate; they formed a marked portion of the argument. Thus, the enemies of the abolition contended, that the same arguments would justify abolishing slavery, as well as the slave-trade. How did the friends of the measure meet this pretended *reductio ad absurdum*? By admitting the inference to be absurd, and denying that it followed from their doctrines? No such thing. They denied that there was any absurdity in it, and embraced it as a legitimate consequence, with one qualification only in point of time. Let the Negroes, said they, be prepared by an improved treatment, and then we grant their right to freedom, as soon as its enjoyment is safe to themselves. Mr Sheridan stated this, in answer to Mr Windham, in the following remarkable terms; and Mr Wilberforce fully adopted his statement, in the reply which closed this memorable discussion, the debate upon the last stage of the bill. ‘ He’ (Mr Windham) ‘ argues the question as if it were a determination of those who wish for the abolition of the slave trade to continue slavery; but I, on the contrary, trust, that the effect of the abolition of the slave-trade will be the abolition of slavery itself. What! says he, do you declare that the trade is contrary to humanity, and do you not think that slavery is against humanity, justice, and sound policy? I join, Sir, with him in the argument, and I say, that *if we do not go on with what we have thus begun, we do nothing*. But why will he make us blend two things which are in themselves perfectly distinct, one which is in our power now, the other which is not yet in our power, but in our power? I look upon this measure *but as the preamble, and as only proper preamble, to the entire abolition of slavery*.’ † Lord Grenville plainly intimated that he entertained the same enlightened and humane views, when he introduced the bill into the House of Lords; he then filling the high office of

* Substance of the Slave-trade Debates, 1807, published by W. Phillips in 1808, p. 108.

† Debates, 1807, p. 27

Prime Minister, and acting, of course, with the degree of caution befitting one placed in so responsible a situation. After adverting to the inexpediency of sudden emancipation, because of its dangers to the slaves themselves, he proceeded thus. 'It is, however, of great consequence, that we should look attentively to that period when *the disgrace of slavery, in any form, shall no longer be suffered within the territories of this free country.* While we are advocates for the liberties of Europe; † while we raise the standard of freedom against the common enemy of order, virtue, and humanity, it behoves us peculiarly to preserve that *freedom unpolluted* within the pale of the British empire. Feeling, my Lords, strongly, all the duties which result from such a situation, I recommend this measure to your notice, as *the most safe and effectual means of the ultimate emancipation of the slaves in the West Indies.* By this expedient you will abundantly ameliorate their condition, so that they may be fitted for the enjoyment of *that liberty which, in every region of the earth, is the common right of human nature.*' ‡ We regret that we cannot add to these authorities the names of persons now in office. Excepting Mr Canning, none of them took part with the abolition in these debates; and Lord Liverpool, the present Chancellor, Lord Eldon, Lord Westmoreland, and Lord Sidmouth, strenuously opposed it. But it is remarkable, that the very last occurrence in the great debate in the House of Commons, and just before the division which left Lord Castlereagh in a minority of 16 against 283, was a formal notice by Earl Percy, then member for Westminster, and now Duke of Northumberland, that in one of the future stages of the bill he should propose a clause, 'declaring every child free which should be born within the limits of his Majesty's dominions after the 1st of January 1810.' The manifest expediency of keeping the two measures of abolition and emancipation separate, prevented the noble Earl from persisting in his purpose; but he met with very general encouragement among the friends of the abolition, to renew his proposition at a convenient season.

Now, we request the reader's attention to these facts in the history of the question; for, beside the great weight of authority which they bring along with them, their importance is most

† How are times changed, and how are the mighty fallen, since these proud expressions were not more magnificent than solid!

‡ Debates, 1807, p. 246. Mr Wilberforce's Adoption of Mr Sheridan's Argument, p. 267. This work was published by the Abolition Committee.

striking in demonstrating the groundlessness of the charge so frequently in the mouth of the slave-trader and the slave-driver, that the abolitionists have been guilty of deception, in first pressing the destruction of the traffic, while they admitted the necessity of continuing the state of slavery, and then calling for the abolition of slavery when they had accomplished the downfall of the trade. Nothing, surely, can be more untrue than the assertion, that emancipation never was heard of till the abolition was obtained; or that they who supported the one, disavowed any views of attempting the other. That the slaves were not fit for receiving their liberty; that, for the present, they must be held in bondage; that he was their enemy who should seek prematurely to free them, and still more who should try by violence to compass this design, no man, however strenuous a friend of the African race, could doubt. But assuredly, the fullest avowal of their ultimate views was made by those wise and humane individuals, and the most distinct notice of their intentions, when they treated as absurd the notion of perpetual bondage; indulged in the prospect of the present generation witnessing the transition of slavery into free labour; asserted, that if the Legislature stopped at the first measure, it did nothing; described the abolition as the preamble to emancipation, the most safe and effectual method of accomplishing it, and of giving to the slaves of the West Indies the liberty which Lord Grenville justly declared to be the common birth-right of man all over the globe.

It may next be remarked, that although the sixteen or seventeen years which have elapsed since the trade was abolished, have been very far from producing such beneficial changes in the condition of the slaves as were fondly expected; and although, indeed, little or nothing has been done by the Colonial Legislatures to further improvements of this kind, yet the mere lapse of time renders any measures which may now be adopted for promoting the comforts of those unhappy beings, communicating to them the enjoyment of rights calculated to raise their character, and facilitating their acquirement of freedom itself, both more necessary and more safe; more necessary on our part, inasmuch as we have to reproach ourselves with a long and most cruel delay of justice; and more safe on their part, inasmuch as the increased length of time during which they have been accustomed to changes in the condition of their race, to the interposition of the mother country in their favour, to the exclusive society of Creoles without any fresh accessions of native Africans, to the mention of Negro liberty, to the spectacle of Negro ascendancy in St Domingo, seems to render

any apprehension of risk very chimerical. The Negro is far less likely if liberated to be rebellious, because the change has not come quickly upon him; and his demeanour for so long a time in such circumstances, is a proof that his nature is far less prone to insurrection than had been supposed; although it was always maintained by the friends of the Africans, that the danger of revolt would be found, in a uniform proportion to the maltreatment of the Negroes, and the number of newly imported slaves in any West Indian community. These considerations are of the greatest moment in the discussion of the questions now before us; and we are the more anxious to press them upon the reader, because we frankly profess ourselves to be of the number of those whose alarms at the prospect of Negro insurrection have been wholly allayed by an attentive examination of the conduct of the West Indian slaves, and still more of the Free Blacks and Mulattoes, since the eventful period when St Domingo threw off the yoke, and successfully resisted the attempts at a reconquest. The excellent work before us states many important particulars well worthy of being seriously weighed, in the further prosecution of these observations.

Mr Clarkson, in order to show how chimerical are the fears of rebellion from emancipating the slaves, examines seven different cases in which the experiment has been tried more or less fully, and on a scale more or less extended—during the last forty years. The first is that of two thousand slaves, freed during the American War, and at the peace carried to Nova Scotia and there settled, until the climate made it necessary that they should be removed to Sierra Leone. The next is the settlement in Trinidad of some hundreds of Negroes whom we most unjustifiably invited to revolt and desert during the disgraceful expedition of 1814 against the United States. In both these instances, the greatest apprehensions were entertained by the White inhabitants of the new neighbours thus suddenly brought among them; in both, the uniformly peaceful and orderly demeanour of the poor Blacks has put all such fears to flight. The disbanded soldiers of the West India regiments, and negroes captured at sea since the abolition, and carried to Sierra Leone, form the third and fourth cases. The latter is the most important; and Mr Clarkson thus states it:

‘They were taken out of slave-ships, captured at different times, from the commencement of the abolition of the slave trade to the present moment, and on being landed were made free. After having recruited their health, they were taught to form villages and to cultivate land for themselves. They were made free as they were landed from the vessels, in bodies of from fifty to three or four hundred at a

time. They occupy at present twelve towns, in which there are both churches and schools. Regent's Town having been one of the first established, containing about thirteen hundred souls, stands foremost in improvement, and has become a pattern for industry and good example. The people there have now fallen into the habits of civilized society. They are decently and respectably dressed. They attend divine worship regularly. They exhibit an orderly and moral conduct. In their town little shops begin to make their appearance; and their lands show the marks of industrious cultivation. Many of them, after having supplied their wants for the year, employ a surplus produce in the purchase of superfluities or comforts. The whole number of these persons is about 14,000.' pp. 16, 17.

We add with great satisfaction our author's valuable remarks upon those four cases; noting, as we pass, the singular calmness of the tone, and persuasive simplicity of the expression.

'Here then are four cases of Slaves, either Africans or descendants of Africans, *emancipated in considerable bodies* at a time. I have kept them by themselves, because they differ from those which follow; and I shall now reason upon them. Let me premise, however, that I shall consider the first three of the cases as one, so that the same reasoning will do for all. They are alike indeed in their *main features*, and we must consider this as sufficient; for to attend minutely to every shade of difference, * which may occur in every case, seems unnecessary.

'It will be said then, that the first three cases *are not strictly analogous* to that of the West Indian Slaves. It will be contended, that the Slaves in our West Indian Colonies having been constantly in an abject and degraded state, their faculties are benumbed; they have contracted all the vices of slavery; and their bosoms burn with revenge against the Whites. How, then, can persons in such a state be fit to receive their freedom? The Slaves, on the other hand, who are comprehended in the above three cases, found in the British army a school as it were, *which fitted them by degrees for making a good use of their liberty*. While they were there, they were never out of the reach of discipline, and yet were left in some measure to act as free men. They obtained in this *preparatory school* knowledge of the customs of civilized life. They were in the habit also of mixing familiarly with the white soldiers. Hence, it will be said, they were in a state much more favourable for undergoing a change in their condition than the West Indian slaves. I admit all this. But I never stated, that our West Indian slaves were to be emancipated suddenly, but *by degrees*. I always took it for granted, that they were to have

* A part of the Black regiments were picked in Africa as recruits, were not transported in slave-ships, and were never under West Indian masters: but it was only a small part compared with the whole number in the three cases.

their preparatory school also. Nor must it be forgotten, as a comparison has been instituted, that if there was *less* danger in emancipating the other Slaves, *because they had received something like a preparatory education* for the change, there was *far more* in another point of view, *because they were all acquainted with the use of arms*. Would our West Indian Planters be as much at their ease, as they now are, if their Slaves had acquired a *knowledge of the use of arms*, or would they think them on this account more or less fit for Emancipation?

It will be said again, that the fourth case, consisting of the Sierra Leone captured Negroes, is *not strictly analogous* to the one in point. These may have been slaves but *for a short time* previous to their capture upon the ocean, so that they had scarcely been slaves when they were returned to the rank of free men. Little or no change could have been effected in so short an interval, in their disposition and their character; and, as they were never carried to the West Indies, so they could not have contracted the bad habits, or the degradation, or the vices of the slavery there. It will be contended, therefore, that they were *better, or less hazardous*, subjects for *Emancipation*, than the Slaves in our Colonies. Giving to this objection its full weight, the case of the Sierra Leone captured Negroes will nevertheless be found to be a very strong one. They were all *Africans*. They were all *slaves*. They must have contracted *as mortal a hatred of the Whites* from their sufferings on board ship by fetters, whips, and suffocation in the hold, as the West Indian slaves from those severities which are attached to their bondage on shore. Under these circumstances, we find them *made free*; not after any *preparatory* discipline, but almost *suddenly*; and *not singly*, but *in bodies* at a time. We find them also settled, or made to live under the *unnatural* government of the *Whites*; and, what is more extraordinary, we find their present number, as compared with that of the Whites in the same Colony, nearly as *one hundred and fifty to one*; notwithstanding which superiority, fresh emancipations are constantly taking place, as fresh cargoes of captured contrabandists arrive in port.

It will be said, lastly, that all the four cases put together prove nothing. They can give us nothing like a *positive assurance*, that the Negro slaves in our colonies would pass through the ordeal of emancipation without danger to their masters or the community at large. Certainly not. Nor, if these instances had been far more numerous than they are, could they, in this world of accidents, have given us *a moral certainty of this*. They afford us, however, a *hope*, that emancipation is practicable without danger: for will any one pretend to say, that we should have had as much reason for entertaining such a hope, *if no such instances had occurred*; or that we should not have had reason to despair, *if four such experiments had been made, and if they had all failed*? They afford us, again, ground for believing, that there is a peculiar softness, and plasticity, and pliability in the African character. This softness may be collected al-

most every where from the Travels of Mr Mungo Park, and has been noticed by other writers, who have contrasted it with the unbending ferocity of the North American Indians and other tribes. But if this be a feature in the African character, we may account for the uniformity of the conduct of those Africans, who were liberated on the several occasions above mentioned, and for their yielding so uniformly to the impressions, which had been given them by their superiors, after they had been made free; and, if this be so, why should not our colonial slaves, if emancipated, conduct themselves in the same manner? Besides, I am not sure whether the good conduct of the liberated slaves in these cases was not to be attributed in part to a sense of interest, when they came to know that their condition *was to be improved*. Self-interest is a leading principle with all who are born into the world; and why is the Negro slave in our colonies to be denied this common feeling of our nature?—why is he to rise against his master, when he is informed that his condition is to be bettered? On the contrary, is he not likely rather to rejoice and feel grateful, when he is made to *experience* better laws and better treatment? pp. 17—19.

The fifth case is one on a much more ample scale—the emancipation of St Domingo. Mr Clarkson first gives a succinct and clear account of this great passage in the annals of the African race; showing how much of the insurrection there was owing to the Whites and Free Mulattoes; and proving, that after the first dreadful explosion was over, the Negroes who obtained their freedom by virtue of the proclamations issued by Santhonax in the south, and Polverel, the other commissioner, in the west, with the almost unanimous consent of the planters, did nothing to show they were incapable of enjoying this boon; and then tracing the behaviour of the whole Negro population, after the decree of the Convention in 1794 had confirmed the absolute emancipation of the whole colony. After giving the details of this subject on the respectable authority of Colonel Malenfant, an eyewitness, he having been resident in the Island at the time, our author justly observes, that it is most gratifying to find the demeanour and habits of the slaves thus suddenly liberated, so quiet and so industrious. For the first nine months after this great, and, we may say, violent change had been effected in their condition, during a season, too, of unexampled convulsion both in the colony and mother country, we find them continuing to work ‘as peaceably as before, upon their old plantations and for their old masters, both in the South and the West of the Island.’ The revolt and consequent massacres which desolated that fair and fruitful territory in 1791, were wilfully occasioned by the Whites and Mulattoes, who engaged in a fierce civil war themselves, excited the slaves

to take a part, and made them rise against their masters, in order to increase the fury of their own destructive strife. The enormities then committed by the Negroes, were during the reign of slavery over them, and of a bloodthirsty contest for dominion, among their masters. When the slave became free, he was quiet and industrious; the direct evidence of Colonel Malenfant, which reaches to 1795, is aided by Mr Clarkson's 'diligent search among all the French writers on St Domingo ' during that and following year, without being able to find any 'traces of outrage or misconduct.' Ample testimony to their situation during Toussaint's reign, from 1796 to 1802, is then adduced. We give a part only—moulding into one extract the substances of several pages.

' Let us appeal first to Malenfant. "The colony," says he, "was flourishing under Toussaint. The Whites lived happily and in peace upon their estates, and the Negroes continued to work for them. —I may appeal next to General Lacroix, who published his "Memoirs for a History of St Domingo," at Paris, in 1819. He informs us, that when Santhonax, who had been recalled to France by the Government, returned to the colony in 1796, "he was astonished at the state in which he found it on his return." This, says Lacroix, "was owing to Toussaint, who, while he had succeeded in establishing perfect order and discipline among the Black troops, had succeeded also in making the Black labourers return to the plantations, there to resume the drudgery of cultivation."

' But the same author tells us, that in the next year (1797) the most wonderful progress had been made in agriculture. He uses these remarkable words: "The colony," says he, "marched as by enchantment towards its ancient splendour; cultivation prospered; every day produced perceptible proofs of its progress. The city of the Cape, and the plantations of the North, rose up again visibly to the eye." Now, I am far from wishing to attribute all this wonderful improvement, this daily visible progress in agriculture, to the mere act of the emancipation of the slaves in St Domingo. I know that many other circumstances may have contributed to its growth; but I maintain, that unless the Negroes, who were then free, had done their part as labourers, both by working regularly and industriously, and by obeying the directions of their superintendants or masters, the colony could never have prospered, as relates to cultivation, in the manner described.

' The next witness to whom I shall appeal, is the estimable General Vincent, who now lives at Paris, though at an advanced age. He was a colonel, and afterwards a general of brigade of artillery in St Domingo. He was stationed there during the time both of Santhonax and Toussaint. He was also a proprietor of estates in the island. He was the man who planned the renovation of its agriculture after the abolition of slavery, and one of the great instruments in bring-

ing it to the perfection mentioned by Lacroix. In the year 1801, he was called upon by Toussaint to repair to Paris, to lay before the Directory the new constitution, which had been agreed upon in St Domingo. He obeyed the summons. It happened that he arrived in France just at the moment of the peace of Amiens: here he found, to his inexpressible surprise and grief, that Buonaparte was preparing an immense armament, to be commanded by Le Clerc, for the purpose of *restoring slavery in St Domingo.*—‘He remonstrated against the expedition; he told him to his face, that, though the army destined for this purpose was composed of the brilliant conquerors of Europe, it could do nothing in the Antilles.’—‘He stated, as another argument against the expedition, that it was totally unnecessary, and therefore criminal; for that every thing was going on well in St Domingo. *The proprietors were in peaceable possession of their estates; cultivation was making a rapid progress; the Blacks were industrious, and beyond example happy.*

‘I must now leave a blank of nearly two years, or till the year 1804. It cannot be expected during a war, in which every man was called to arms to defend his own personal liberty and that of his family, that we should see plantations cultivated as quietly as before, or even cultivated at all. But this was not the fault of the *emancipated Negroes*, but of *their former masters.*’—‘The expedition at last arrived upon the shores of St Domingo:—a scene of blood and torture followed, *such as history had seldom, if ever before disclosed*, and compared with which, *though planned and executed by Whites*, all the barbarities said to have been perpetrated by the *insurgent Blacks* of the North, *amount comparatively to nothing.* The French troops were not the authors of tearing to pieces the Negroes alive by bloodhounds, or of suffocating them by hundreds at a time in the holds of ships, or of drowning them (whole cargoes) by scuttling and sinking the vessels—but the *Planters.* At length, however, the French were driven from the island. Till that time the Planters had retained their property, and then it was, but not till then, that they lost their all. It cannot be expected that I should have any thing to say of the industry or good order of the emancipated Negroes during *such a convulsive period.*’ pp. 24—26.

‘In the year 1804, Dessalines was proclaimed Emperor of this fine territory. In process of time a great part of the Black troops were disbanded, and returned to cultivation. As they were free when they became soldiers, so they continued to be free when they became labourers again. From that time to this, there has been no want of subordination or industry among them. They or their descendants are the persons by whom the plains and valleys of St Domingo are still cultivated, and they are reported to follow their occupations still, and with *as fair a character as other free labourers in any other quarter of the globe.*’ p. 26.

After some most interesting and satisfactory details concerning the administration of the Island under Toussaint, and its

effects upon the manners and condition of the inhabitants, our author justly 'marks the diversity' between this grand experiment and any which can ever be dreamt of elsewhere. The St Domingo slaves, half a million in number, were liberated in a day, without preparation, or even warning; while ferocious bands, profaning the name of freedom, were occupied in massacring one another to gratify their mutual hatred, or obtain the ascendant for purposes of a nature still more sordid. To intestine discord, foreign war, and even invasion was added. In short, whether we regard the circumstances in which the experiment was made, or the nature of the thing tried, it would be difficult to picture any measure more unlike the course now recommended to our Government and planters, or any more unfavourable to the securing of a successful result; and yet no one can deny, that, under every imaginable disadvantage, if we except the horrors attending the earlier part of the struggle, for which Negro emancipation is undoubtedly nowise accountable, the transition of the people in St Domingo from bondage to freedom, has been accomplished with safety and ease.

The sixth experiment need not detain us long; because, although it is extremely interesting in itself, yet the circumstances in which it was tried may be considered as peculiar; and the greater part of it falls rather within the class of gradual, than of sudden emancipations. We allude to the noble example set by General Bolivar in freeing his slaves, to the number of between seven and eight hundred, and the decree of the Congress made at his suggestion in July 1821, by which all those who had served as soldiers in the war of independence were emancipated, and all children born after that time were declared free, on condition of serving the master of the parents until they should attain their eighteenth year. A letter to Mr Stephen, that most zealous, tried, and powerful enemy of Negro slavery, written seven months after the decree was in force, states, that notwithstanding these prospective provisions, and these acts of immediate liberation, all the slaves 'were peaceably at work through the Republick (of Columbia), as well the newly enfranchised, as those originally free.' And a gentleman of high consideration, who lately arrived in London from the Republick, states, that the liberated slaves were 'steady and industrious, and had conducted themselves well, without a single exception.'

We come now to the last case, and it is, in many respects, the most important of the whole. Hitherto we have been surveying instances of sudden emancipation attended with no mischief; but it must be allowed, that such a change is not advis-

able, if attempted upon a great scale. The experiment which we are now to contemplate demonstrates the facility with which a more gradual change may be effected upon any scale, and shows how the condition of the slaves may be mended, and their entire liberation granted all over the colonies, without any risk to the negroes, and with great gain, even in money, to the planters.

The individual whom we are now to mention, perhaps we should say, introduce to the reader, was evidently one of the most remarkable men of his age and nation; yet, to our shame we speak it, until Mr Clarkson's work turned our attention towards him, we had hardly been aware of his existence. To the shame of the world, and its wickedness and its vanities, let us rather say—for hence it is that the name of great is, by the common consent of men, given exclusively to the worst enemies of man, the destroyers and tormentors and oppressors of their kind—that the imagination loves to be dazzled with feats of power, rather than soothed with labours of love; and an unthinking generation is ever prone to venerate the selfish and violent men who have shed its blood profusely, to forge chains for the survivors, while it neglects, or despises, or, if that be impossible, abhors those who would, by peaceful courses, compass the sacred purpose, of unchaining the mind and unbinding the limbs. But for this habitual prostitution of the noisy trumpet of fame, the good works of Joshua Steele would, long ere now, have been too well known to require our humble efforts for his panegyrick.

This extraordinary person was the owner of three considerable estates in Barbadoes, but resided in London, where he was Vice-President of the Society of Arts. Possessed of great talents and erudition, he appears to have devoted a long life to study, and the promotion of philanthropic pursuits, when, at the advanced age of eighty, he, by examining the annual accounts of his West Indian estates, and particularly the loss of Negro life which they exhibited, was induced to undertake a strict investigation of the matter, and, for this purpose, at once repaired to the spot. During two years residence, he gained a practical knowledge of West Indian husbandry, and of the temper, disposition, habits, and customs of the slaves. He had also read much, and thought much. It may be inferred from his writings, that three questions especially had employed his mind. 1. Whether he could not do away all arbitrary punishments and yet keep up discipline among the slaves? 2. Whether he could not carry on the plantation-work through the stimulus of reward? 3. Whether he could not change

slavery into a condition of a milder name and character, so that the slaves should be led, by degrees, to the threshold of liberty, from whence they might step next, without hazard, into the rank of free men, if circumstances should permit and encourage such a procedure? Mr Steele conceived, after mature consideration, that he could accomplish these objects; and he resolved to make the experiment gradually upon his own estates.

Nothing can be conceived more sound than these principles, or more admirable than the sense which laid them down in theory, excepting it be the sagacity and skill, as well as firmness, tempered with moderation, which he evinced in reducing them to practice. He began by bringing the first of the three positions to the test of experience. He at once took from all the overseers and their white servants their whips, and all power of inflicting arbitrary punishments. The chief overseer resigned; and, as his deputies could, no more than himself, bear the loss of their whips, all were dismissed together; but in their place was formed a magistracy out of the Negroes themselves, with a court or jury of the elder Negroes, for the trial of casual offences. These courts being always held in presence of Mr Steele or his new superintendant, soon grew respectable in the eyes of the slave population; and rulers or magistrates were appointed over the whole gang, with a general superintendence and a power of occasionally reporting every thing that went wrong to the owner or his delegate, and, in case of any emergency, of consulting together as to the means of rectifying any disorders. Satisfied with the results of this first step, he rested for a year, and then ventured upon the second, the change of forced into voluntary labour, but without emancipation. The most laborious operation in West Indian husbandry, is that of holing cane pieces; and it is the one always pitched upon by those who are fond of maintaining the necessary connexion between Negro slavery and that great end and aim of their toil—the production of sugar, and would exemplify their humane and rational doctrine, by an irrefragable instance. Accordingly, Mr Steele began, by offering on a certain day, a reward in money, (about three halfpence each person per day) with the usual allowance of provisions, to any twenty-five Negroes who would undertake to hole a certain extent in a day. The whole gang volunteered, but only fifty were accepted; and among them were several who had usually pretended inability to work upon much lighter occasions. The work was done cheerfully and effectually, and so expeditiously, that the labourers had an hour every evening to spare. Other kinds of work were then done in like manner; and a comparative trial of labour being made

without reward, it was found to be, in similar circumstances, only one-third in amount, during an equal time, by the same labourers. He repeated the experiment the year after with similar success; and from that time, the cultivation of the estate was carried on by taskwork, or by Negroes, slaves no doubt, but working for hire by the piece.

It was not till 1789, nine years after he had settled in Barbadoes, and seven from the commencement of his reform, that this truly practical philosopher proceeded to effect the great improvement of changing the slave into a kind of copyholder; or at least a *vilain regardant*, with more of privilege and less of arbitrary restraint than they used to have, who of old formed the mass of the peasantry in England. His plan was modelled upon the old law of the mother country, selecting such parts as were best suited to the purpose, and with such modifications as change of time and place demanded.

He erected his plantations into *manors*. It appears, that the Governor of Barbadoes had the power by charter, with the consent of the majority of the council, of dividing the island into manors, lordships, and precincts, and of making freeholders; and though this had not yet been done, Mr Steele hoped, as a member of council, to have influence sufficient to get his own practice legalized in time. Presuming upon this, he registered in the *manor-book* all his adult male slaves as *copyholders*. He then gave them separate tenements of lands, which they were to occupy, and upon which they were to raise whatever they might think most advantageous. These tenements consisted of half an acre of plantable and productive land to each adult; a quantity supposed to be sufficient, with industry, to furnish him and his family with provision and clothing. The tenements were made descendible to the heirs of the occupiers or copyholders, that is, to the children *on the plantations*; for no part of the succession was to go out of the plantations to the issue of any foreign wife, and, in case of no such heirs, they were to fall in to the lord, to be re-granted according to his discretion. It was also inscribed, that any one of the copyholders, who would not perform his services to the manor (the refractory and others), was to forfeit his tenement and his privileged rank, and to go back to the state of *vilain in gross*, and to be subject to corporal punishment as before. "Thus," says Mr Steele, "we run no risk whatever in making the experiment, by giving such copyhold tenements to all our well-deserving Negroes, and to all in general, when they appear to be worthy of that favour."

Matters having been adjusted so far, Mr Steele introduced the practice of *rent and wages*. He put an annual rent upon each tenement, which he valued at so many days' labour. He set a rent also upon personal service, as due by the copyholder to his master in his former quality of slave, seeing that his master or predecessor had

purchased a property in him, and this he valued in the same manner. He then added the two rents together, making so many days' work altogether, and estimated them in the current money of the time. Having done this, he fixed the daily wages or pay to be received by the copyholders for the work which they were to do. They were to work 260 days in the year for him, and to have 48 besides Sundays for themselves. He reduced these days' work also to current money. These wages he fixed at such a rate, that "they should be more than equivalent to the rent of their copyholds and the rent of their personal services when put together, in order to hold out to them an evident and profitable incentive to their industry." It appears that the rent of the tenement, half an acre, was fixed at the rate of 3*l.* currency, or between forty and fifty shillings Sterling per acre, and the wages for a man belonging to the first gang at 7½*d.* currency, or 6*d.* Sterling per day. As to the rent for the personal services, it is not mentioned.

' With respect to labour and things connected with it, Mr Steele entered the following among the local laws in the *court-roll* of the tenants and tenements. The copyholders were not to work for other masters without the leave of the lord. They were to work ten hours per day. If they worked over and above that time, they were to be paid for every hour a tenth part of their daily wages, and they were also to forfeit a tenth for every hour they were absent or deficient in the work of the day. All sorts of work, however, were to be reduced, as far as it could be done by observation, and estimation, to equitable task-work. Hoes were to be furnished to the copyholders in the first instance; but they were to renew them, when worn out, at their own expense. The other tools were to be lent them, but to be returned to the store-keeper at night, or to be paid for in default of so doing. Mr Steele was to continue the hospital and medical attendance at his own expense as before.' pp. 34, 35.

The delight with which we naturally dwell on the details of so interesting a process, as the moulding of a whole community by one man's judgment and humanity, upon the most profound views of human nature, and the most accurate knowledge of past experience, must plead our excuse for entering into these particulars of the experiments. We now hasten to the results. In 1788, before the third and last step had been made, he thus expressed himself respecting the success of the two first operations.

' A plantation, ' says he, ' of between seven and eight hundred acres has been governed by fixed laws and a Negro-court for about five years with great success. In this plantation no overseer or white servant is allowed to lift his hand against a Negro, nor can he arbitrarily order a punishment. Fixed laws and a court or jury of their peers keep all in order without the ill effect of sudden and intemperate passions. And in 1790, when the final change had been in operation for

a year, he wrote to his friend, coadjutor, and editor, Dr Dickson, that 'his copyholders had succeeded beyond his expectation.' He lived only till the next spring. 'He had accomplished all he wished,' says Mr Clarkson, 'and he died in the year 1791, in the ninety-first year of his age, at a patriarchal age, no doubt;' but not, we will add, more full of years than of glory.

That he reaped the imperishable reward of his singular virtue, no one can doubt; but it is an important, as well as an agreeable circumstance, that he suffered no loss even of worldly gain, by the hazard he encountered for the good of mankind. He expressly describes his operations as having conducted to his profit: By an accurate statement in the work before us, it appears, that he was a gainer in various respects, beside the obvious one of voluntary labour being more productive than forced. And from his own accounts it is shown, that he actually increased the net gains of his estate threefold during the period of his experiments. Well may we say, with his able and worthy friend, Dr Dickson, that to advance above three hundred field Negroes, who had 'never before moved without the whip, to a state nearly resembling that of contented, honest, and industrious servants; and after paying for their labour, to triple in a few years the annual net clearance of the estate, are great achievements for an aged man, in an untried field of improvement, preoccupied by inveterate vulgar prejudice.'

Justly estimating the importance of this last topic, as likely to be very great in the eyes of mankind, Mr Clarkson enters at considerable length into the proof that slave labour is far less beneficial than the work of hired servants. We are precluded by our limits from following his argument, further than to insert, as a specimen, part of his proofs from the evidence of different witnesses, but especially of Mr Botham, a gentleman well qualified to discuss the question, as he was for many years employed in sugar concerns, both in the East and West Indies.

'It is surprising, when we look into the evidence examined by the House of Commons on the subject of the Slave Trade, to find how little a West Indian slave really does, when he works for his master; and this is confessed equally by the witnesses on both sides of the question. One of them (Mr Francklyn) says, that a labouring man could not get his bread in Europe if he worked no harder than a Negro. Another (Mr Tobin), that no Negro works like a day-labourer in England. Another (Sir John Dalling), that the general work of Negroes is not to be called labour. A fourth (Dr Jackson), that an English labourer does three times as much work as a Negro in the West Indies. Now, how are these expressions to be reconciled with the common notions in England of Negro labour? for "to work like

a Negro" is a common phrase, which is understood to convey the meaning, that the labour of the Negroes is the most severe and intolerable that is known. One of the witnesses, however, just mentioned explains the matter. "The hardship," says he, "of Negro field-labour is more in the *mode* than in the *quantity* done. The slave, seeing no end of his labour, stands over the work, and only throws the hoe to avoid the lash. He appears to work, without actually working."

' Mr Botham, after stating generally that better and cheaper sugar is made in the East by freemen, than in the West by slaves, proceeded to make a comparison between the agricultural system of the two countries. "The cane was cultivated to the utmost perfection in Batavia, whereas the culture of it in the West Indies was but in its infancy. The hoe was scarcely used in the East, whereas it was almost the sole implement in the West. The plough was used instead of it in the East, as far as it could be done. Young canes there were kept also often ploughed as a weeding, and the hoe was kept to weed round the plant when very young; but of this there was little need, if the land had been sufficiently ploughed. When the cane was ready to be earthed up, it was done by a sort of shovel made for the purpose. Two persons with this instrument would earth up more canes in a day than ten Negroes with hoes. The cane-roots were also ploughed up in the East, whereas they were dug up with the severest exertion in the West. Many alterations," says Mr Botham, "are to be made, and expenses and human labour lessened in the West. Having experienced the difference of labourers for profit and labourers from force, I can assert, that the savings by the former are very considerable."

' He then pointed out other defects in the West Indian management, and their remedies. "I am of opinion," says he, "that the West Indian planter should, for his own interest, give more labour to beast and less to man. A larger portion of his estate ought to be in pasture. When practicable, canes should be carried to the mill, and cane-tops and grass to the stock, in waggons. The custom of making a hard-worked Negro get a bundle of grass twice a day should be abolished, and, in short, a total change take place in the miserable management in our West Indian Islands. By these means, following as near as possible the East Indian mode, and consolidating the distilleries, I do suppose our sugar-islands might be better worked than they now are by two-thirds, or indeed one half of the present force. Let it be considered how much labour is lost by the persons overseeing the forced labourer, which is saved when he works for his own profit. I have stated, with the strictest veracity, a plain matter of fact, that sugar-estates can be worked cheaper by freemen than by slaves."

' Mr Botham's account is confirmed incontrovertibly by the fact, that sugar made in the East Indies can be brought to England (though it has three times the distance to come, and, of course, three times the freight to pay), and yet be afforded to the consumer

at as cheap a rate as any that can be brought thither from the West.'

The propositions submitted to the Parliament of the nation, by the enemies of Negro slavery, seem to us to be decidedly recommended by these facts; because a better system of management, ending in emancipation, is thus proved to be beneficial to masters as well as to slaves. The manner in which the change is to be effected, requires a separate discussion. The observations and the facts which we have now laid before the reader, form the groundwork of the argument. We shall, at an early opportunity, proceed to show their practical application. But little harm can befall this important question from the delay, because the preceding details contain by far the greater part of the discussion. The absurdity of the clamours raised against British interference, whether as regards the risk of exciting Negro insurrection, or the pretended rights of the colonial bodies; the ease with which the degrading treatment of slaves, like cattle driven by the whip, may be altered; the safety with which their evidence may be admitted in courts; the imperative duty of at all events emancipating after-born children, and the advantages of this measure to their owners; and the nugatory and delusive support given to the question last Session by the Government, will form the subject of our next article.

ART. VIII. *Travels through Denmark, Sweden, Lapland, Finland, Norway and Russia.* By the late E. D. CLARKE, LL.D. London. 1823.

THE spirit of enterprise and research, which distinguished the character of the late Dr Clarke, are well known to all who have perused his *Travels*; and it would be uncandid in the highest degree not to allow that he has made a very considerable addition to the knowledge we previously possessed of the countries which he visited. His style is lively and animated; his narrative abounds with passages of great feeling and eloquence; and in his powers of description, he has been surpassed by few of his tribe. Though a copious and familiar writer, he seldom detains the reader by observations relating to trivial matters, or by personal details of an uninteresting nature. When his subject leads him into an examination of the antiquities of Palestine, Greece, Asia Minor, and Egypt, his disquisitions display considerable learning; and if we are sometimes compelled to question the justness of his conclusions, it is im-

possible not to admire the spirit and ingenuity with which he supports them. From the peculiar situation of Europe for some time previous to the overthrow of Buonaparte, many of our countrymen directed their attention to parts of the East; and those who have followed the steps of Dr Clarke, have borne willing testimony to the general truth and fidelity of his statements. Some prejudices, indeed, were excited by the appearance of the first volume, which contained an account of the manners and character of the Russians; but these soon subsided; and the opinion of the public was declared in the most favourable manner. Three editions in quarto were printed in England, and the same number in America; and Dr Clarke had the satisfaction of receiving from persons who had resided in Russia, or visited different parts of that country, letters in which the accuracy of his accounts was confirmed.

We learn from the Preface to this volume, that the author was unable to complete it during his lifetime. Twelve chapters had been prepared, and printed under his inspection before his death; the rest are composed from the observations contained in his Manuscript Journals, and from remarks found also among his papers, communicated by his friends who had visited the North of Europe. It commences with an account of Christiana in Norway, and presents us with a picture of the state of society in that city, and of the manners of its inhabitants; and with some particulars respecting the commercial and agricultural resources of the country. The reception of strangers by the Norwegians is of the most hospitable kind; there is no part of Europe, where more sumptuous or more varied entertainments are given, than in Christiana; but some practices noticed by Dr Clarke, and which are observed to prevail even in the first circles of society, such as marking the points of a game at cards with chalk upon the table, smoking, and spitting on the ground, indicate a slight degree of barbarism, and want of refinement and delicacy. It must, however, be observed, that the last of these habits, the most offensive of all, is common in a country which boasts of its peculiar civilization and knowledge of the arts of life. As there is no market in Christiana, a necessary part of the economy even of the first houses, consists in providing, at a particular season, stores for the whole year's consumption. The great preparation is made in autumn; and the slaughter of cattle in the month of October is astonishing. Some of the meat is salted, the rest is dried. The English language is generally understood; and the dresses of the females in the best society are English. From the number of servants, the largeness of the establishments, and

the trouble of superintending the domestic concerns, the mistresses of families after their marriage, find so much of their time occupied, that they have no leisure to attend to any thing else.

The commerce of the country consists in the exportation of timber, iron, copper, alum, glass, tar, and skins; among the articles imported, are corn from Denmark and the Baltic; cloth, camlets, hardware, lead, and coal from England. The population of Norway at the time of Dr Clarke's visit, amounted to 920,000 inhabitants. The state of the labouring poor was improving; and the lower orders appeared to live as well as those in England, with this difference, that their bread was made of rye instead of wheat. The cattle during the winter are fed chiefly with the leaves and small branches of a species of poplar, gathered at the end of the summer: we may add, that a similar practice prevails in most of the cantons of Switzerland, and in the North of Italy. 'The peasants and poor of Norway will not eat rabbits, they fancy them too like cats.' p. 26. Every country furnishes instances of the dislike entertained by its inhabitants to particular articles of subsistence, which are held in estimation by other people. The Arabs eat locusts, roasted and boiled, while they are surprised that crabs, oysters, and lobsters should form any part of the food of Europeans. 'Who could prevail on an Englishman,' our author asks, 'to eat a rat or a hedge-hog? Yet these are acknowledged to afford a delicious morsel in countries where the inhabitants are not liable to the same prejudices.' The singular taste of eating rats is incorrectly stated by some writers to have prevailed among the ancient Romans; it was not the rat, but the field-mouse found in chestnut woods; and still eaten by the Italians (who call it *ghiro* from the Latin *glis*), that formed a dish at the Roman tables.

The laws respecting marriage had been altered a short time before Dr Clarke's arrival. Every man born of a farmer or labourer was formerly a soldier; those born of sailors, were sailors. The officer of the district took them at any age he pleased. After this, the man could not marry without producing a certificate, signed by the minister of the parish, that he had property sufficient to support a wife and family. A peasant, before his name was registered, might marry without a certificate; but he exposed his wife and family to the danger of being starved, if it was afterwards enrolled; and parents would not allow their daughters to marry without some prospect of support. These regulations operated as a strong preventive check on population, and accounted for the slow increase of the people. They

also explained why the lower classes were in a much better state, than could be expected from the barrenness of the country. The Governor complained to Dr Clarke of the alteration in the law, and of the change which had recently taken place; and said, that the peasants would now marry without any prospect of being able to maintain a family; and the consequence would be, that more would be born than the country could support. We wish that some intelligent traveller would institute inquiries relating to this subject, and ascertain what the result has actually been. There are circumstances in the modes of life, and peculiar situation of Norway, that lead us to believe, the population of the country must increase at a very slow rate. Among these we may mention the great proportion of pasture, in comparison with the soil capable of growing corn, the low state of all the manufacturing establishments, the practice of purchasing large tracts of wood by the merchants, in order to protect the growing timber, which prevents the clearing of the land, and placing more of it under tillage. If, as Professor Malthus asserts, an improved system of husbandry has taken place, and the obstacles in the way of the division of property have been removed, the funds for the maintenance of labour have doubtless been increased, and the resources for supplying a greater population enlarged and extended.

While Dr Clarke was at Christiana, he made a visit to the silver mines of Kongsberg, where a mass of native silver was once found, weighing nearly 600 pounds. This, we believe, is the largest specimen known, with the exception of that mentioned by Brogniart, as brought from Schnéeberg in Misnia. Though the loss sustained by the Danish Government is very considerable, the excavations are continued, in order to give employment to great numbers of inhabitants, who would otherwise be deprived of all support. There are no less than 14,000 families who derive their subsistence, either directly or indirectly, from the works. Dr Clarke was enabled to procure some crystals of native silver; but he omits to notice the very fine specimen found in these mines, and described by Romé de l'Isle, in which, 'les cristaux étoient de la grosseur d'une aveline, et avoient la forme d'un cube, dont les huit angles seules sont tronqués.' Dr Clarke enters into many details respecting the present establishment, the cause of the loss sustained by the Government (arising chiefly from a want of economy, and of vigilance necessary to prevent embezzlement), the various excavations, the geological nature of the mountains, the metallurgical operations, the minerals and substances found there in addition to the native silver. In the public seminary

at Kongsberg, lectures were given by Professor Ensmark, one of the most scientific mineralogists in Europe. The miners and their children are instructed in the school of the academy, and no payment whatever is required from them. 'We felt at this moment an inward sense of shame for our own country, in which such studies have met with little encouragement. We could but turn our thoughts homewards, and ask what the Government of Great Britain had ever done towards the advancement of mineralogical knowledge. At this moment, there was not a single professorship of mineralogy in any of our Universities.' Our author adds, in a note, that this passage is given as it occurs in his Journals; but the censure it conveys is, we are glad to find, no longer applicable to either of the seats of learning in the South. Dr Clarke himself was appointed to the first Regius Professorship of Mineralogy that was established in the University of Cambridge; and the able manner in which he discharged the duties of that situation, and the zeal he uniformly displayed in promoting and extending the cultivation of the science by his example and exertions, are well known.

Dr Clarke now left Christiana, and began his journey a second time towards Sweden. The roads were so bad, that he regretted not having waited for the winter season, when the traveller is enabled, by means of sledges, to proceed with expedition and comfort. At half a Danish mile from Magnor, an avenue cut through the Forest, marks the boundary between Norway and Sweden. He was struck by the singular and melancholy appearance of the inhabitants of this district, who were all dressed in black, and by the denuded and wretched aspect of the country. A dearth had prevailed during the preceding winter, greater than the oldest person remembered. The people had saved themselves from starving, by eating bark bread and sorrel, (*Rumex acetosa*). From Carlstadt, a town carrying on a trade in bar iron and timber, they passed through Moltem, a small village. 'The church service had just ended; and a vast throng of the peasants filled the posthouse, impatient to get their dram, according to custom, as a morning whet after prayers. But we saw no symptom of intoxication.' Here the roads were found to be in excellent order, a portion being assigned by measurement to the peculiar care of each peasant, who frequently pointed with pleasure and exultation to the condition of the part superintended by him. Many curious minerals were found in this district, particularly at Brattesors, a mine which Dr Clarke was not able to examine: though a full account of it may be found in

the valuable work of Engestrom. The uniformity of scenery, and of the appearance of the inhabitants, over a great part of Sweden, is very striking. The dress of the women is everywhere the same; and the landscape presents an unbounded forest, varied only by patches of cultivated ground, enclosed by fences. At Philipstadt, Dr Clarke observed that most of the houses were covered with masses of iron slag, laid on to keep down the birch bark upon the roof.

He was now in the neighbourhood of the mines of Persberg, one of the principal objects of his journey to this country. The account of his descent is a favourable specimen of Dr Clarke's power of description.

The author's visit to these mines was made after he had personally inspected many of the principal works of the same nature in other countries, and especially in his own. For the last ten years of his life, he had been much in the habit of seeing similar works: it is not therefore owing to any surprise at the novelty of the scene before him, that he has now to mention the astonishment he felt when he arrived at the mouth of one of the great *Persberg* mines; but he is fully prepared to say of it, and with truth, there is nothing like it in all that he has beheld elsewhere. For grandeur of effect, filling the mind of the spectator with a degree of wonder which amounts to awe, there is no place where human labour is exhibited under circumstances more tremendously striking. As we drew near to the wide and open abyss, a vast and sudden prospect of yawning caverns and of prodigious machinery prepared us for the descent. We approached the edge of the dreadful gulf whence the ore is raised, and ventured to look down, standing upon the verge of a sort of platform, constructed over it in such a manner as to command a view into the great opening as far as the eye could penetrate amidst its gloomy depths; for, to the sight, it is bottomless. Immense buckets, suspended by rattling chains, were passing up and down; and we could perceive ladders scaling all the inward precipices, upon which the work people, reduced by their distance to pigmies in size, were ascending and descending. Far below the utmost of these figures, a deep and gaping gulf, the mouth of the lowermost pits, was, by its darkness, rendered impervious to the view. From the spot where we stood, down to the place where the buckets are filled, the distance might be about seventy-five fathoms; and as soon as any of these buckets emerged from the gloomy cavity we have mentioned, or until they entered into it in their descent, they were visible; but below this point they were hid in darkness. The clanking of the chains, the groaning of the pumps, the hallooing of the miners, the creaking of the blocks and wheels, the trampling of horses, the beating of the hammers, and the loud and frequent subterraneous thunder from the blasting of the rocks by gunpowder, in the midst of all this scene of excavation and uproar, produced an effect which no stranger can

behold unmoved. We descended, with two of the miners and our interpreter, into this abyss. The ladders, instead of being placed like those in our *Cornish* mines, upon a series of platforms as so many landing-places, are lashed together in one unbroken line, extending many fathoms; and being warped to suit the inclination or curvature of the sides of the precipices, they are not always perpendicular, but hang over in such a manner, that even if a person held fast by his hands, if his feet should happen to slip, they would fly off from the rock, and leave him suspended over the gulf. Yet such ladders are the only means of access to the works below: and as the labourers are not accustomed to receive strangers, they neither use the precautions, nor offer the assistance, usually afforded in more frequented mines. In the principal *tin-mines* of *Cornwall*, the staves of the ladders are alternate bars of wood and iron: here they were of wood only, and in some parts rotten and broken, making us often wish, during our descent, that we had never undertaken an exploit so hazardous. In addition to the danger to be apprehended from the damaged state of the ladders, the staves were covered with ice or mud; and thus rendered so cold and slippery, that we could have no dependence upon our benumbed fingers, if our feet failed us. Then, to complete our apprehensions, as we mentioned this to the miners, they said,—“Have a care! It was just so, talking about the staves, that one of our women fell, about four years ago, as she was descending to her work.” “Fell!” said our *Swedish* interpreter, rather simply; “and pray what became of her?” “*Became of her!*” continued the foremost of our guides, disengaging one of his hands from the ladder, and slapping it forcibly against his thigh, as if to illustrate the manner of the catastrophe,—“*she became (pankaka) a pancake.*”

“As we descended farther from the surface, large masses of ice appeared, covering the sides of the precipices. Ice is raised in the buckets with the ore and rubble of the mine: it has also accumulated in such quantity in some of the lower chambers, that there are places where it is fifteen fathoms thick, and no change of temperature above prevents its increase. This seems to militate against a notion now becoming prevalent, that the temperature of the air in mines increases rapidly as the depth from the surface, owing to the increasing temperature of the earth under the same circumstances and in the same ratio; but it is explained by the width of this aperture at the mouth of the mine, which admits a free passage of atmosphere. In our *Cornish* mines, ice would not be preserved in at any considerable depth from the surface.

Such fatigue, and no small share of apprehension, we at length reached the bottom of the mine. Here we had no sooner arrived, than our conductors, taking each of us by an arm, hurried us along, through regions of “thick-ribbed ice” and darkness, into a vaulted level, through which we were to pass into the principal chamber of the mine. The noise of countless hammers, all in varie-

ment action, increased as we crept along this level; until at length subduing every other sound, we could no longer hear each other speak, notwithstanding our utmost efforts. At this moment we were ushered into a prodigious cavern whence the sounds proceeded; and here, amidst falling waters, tumbling rocks, steam, ice, and gunpowder, about fifty miners were in the very height of their employment. The magnitude of the cavern, over all parts of which their labours were going on, was alone sufficient to prove that the iron-ore is not deposited in veins, but in beds. Above, below, on every side, and in every nook of this fearful dungeon, glimmering tapers disclosed the grim and anxious countenances of the miners. They were now driving bolts of iron into the rocks, to bore cavities for the gunpowder, for blasting. Scarcely had we recovered from the stupefaction occasioned by our first introduction into this *Pandæmonium*, when we beheld, close to us, hags more horrible than perhaps it is possible for any other female figures to exhibit, holding their dim quivering tapers to our faces, and bellowing in our ears. One of the same sisterhood, snatching a lighted splinter of deal, darted to the spot where we stood, with eyes inflamed and distilling rheum, her hair clotted with mud, dug naked and pendulous; and such a face, and such hideous yells, as it is impossible to describe:—

Black it stood, as Night—fierce as ten Furies—
Terrible as Hell'——

p. 105.

The importance of these subterraneous treasures to Sweden, in the employment they afford to the founderies, and in the constant demand for the aid of machinery, are well explained in the work before us.

In his journey through Dalecarlia, Dr Clarke observed the similarity between the ceremonies of a wedding celebrated by the inhabitants of that province, and the manners of the ancient Greeks. Some of the Swedish writers have noticed the resemblance, and have rashly inferred, that one nation owed its origin to the other. Dr C. more judiciously contends, that both were descendants of one common stock; he has not, however, stated what that common origin was, which was undoubtedly the East.

The different mining establishments of Sweden are such important features in the country, that no apology is required for the full account which Dr Clarke has given of them, though this part of the work cannot be expected to afford much interest to the general reader. There is no mine of equal celebrity which, under all the circumstances of depth and magnitude, is so easy of investigation, as that of Fahlun in Dalecarlia. Professor Gahn, presided over the work, and appointed his son as guide and companion to Dr Clarke. The different processes for excavating the copper ore, the manner in which it is found de-

posited, the mode of dividing it, and the value of the lots, are fully described. 'In many of their works, the Swedes,' according to Dr C. 'are far behind the English,'—a sentiment in which he differs from Dr Thomson, who describes the Swedish process of smelting as simple and economical, and as having the advantage over the methods employed to reduce the same kind of ore in Anglesey. The atmosphere of the town of Fahlun is almost intolerable to a stranger; and, were it not for the convincing proof afforded by Professor Gahn, who obtained copper by analysis from the beams of the houses, a traveller might be suspected of exaggeration, who should affirm, that the timbers of the buildings here, in the course of thirty years, are worth working for the quantity of this metal which they contain. Dr C. mentions the punishment inflicted on miners who have been guilty of misconduct; they are placed on an enormous wooden image of an horse, elevated 12 or 15 feet from the ground; and Mr James states, that the same mode of punishment is adopted at Stockholm for common misdemeanours. We find, in the account of the life of Linnæus, that this distinguished man resided for some time at Fahlun, where he gave lectures in Mineralogy.

From Sala, our traveller reached Upsala, with an intention of examining, more fully than he could do in his first visit, the actual condition of this once celebrated seat of northern literature; but he was disappointed in the expectations he had formed, and found little to applaud or admire. The students seemed to be actuated by none of that zeal and ability which had once distinguished the members of this University. The botanic chair was filled by Afzelius, who had lately returned from his travels, in which he had been engaged for ten years. But the lecture was attended by only half a dozen slovenly boys standing round him, the eldest of whom could not be more than fourteen years of age. The subject of one of the lectures at which Dr C. was present, was the *Superba Palmarum Samibia* of Linnæus; and 'the whole interest displayed by the pupils seemed to consist in watching for the moment when a palm branch was cast among them by the Professor, for which they scrambled, being eager to cut these branches with their knives, for the purpose of making them serve as walking-sticks.' Nor is the account of the class of auditors who attended the lecturer in Chemistry of a more favourable kind. The Professor, John Afzelius, brother of the person already mentioned, was addressing about twenty or thirty students, but in a voice so low and inaudible, as to be scarcely intelligible to those who were his constant hearers. A few of the students

were taking notes; but the chief part of the audience seemed to be very inattentive, and to be sitting rather as a matter of form, than for any purpose of instruction. Their slovenly dress and manner gave them the appearance of so many labouring artificers. When Mr James was at Upsala, the *quondam* lecture-room of Linnæus was occupied by an itinerant exhibiter of Fantoccini, whose puppets were performing Don Juan for the amusement of the Swedish rustics that flocked to the annual fair. 'A student in the streets of Upsala is not clad better than any working coach-maker or carpenter in England. Every one studies what, and when he pleases. After mid-day, a public cellar (*La Cave*) is the place of general resort. There is a total laxity of restraint, and neglect of all discipline, and want of energy and emulation; and every thing seems to indicate the gradual dissolution and decay of what Stillingfleet called the great and hitherto unrivalled School of Natural History.' p. 204.

The University Library contains a few typographical rarities, and some manuscripts in vellum; but they are all eclipsed in splendour and value, by the well known *Codex Argenteus*, a manuscript of the Gospels, written about the end of the fourth century in the Gothic language, used at that time in Mæsia. Dr Clarke has quoted a verse of the translation, in which the English 'child' is rendered '*barn*;' the orthography of this word (which is spelt in Junius and the Etymologicon of Skinner, *bearn* and *bern*), deserves to be noticed. The teachers of Upsala are divided into four classes, Professors, Assistants, *Magistri docentes* (or privileged teachers), and a set of persons who give instructions in modern languages, horsemanship, dancing, painting, and music; these last are styled, *magistri artium, equestrium et cultiorum*. And our readers may be desirous of seeing how a fencing-master advertises, in Latin, for pupils in that noble art. '*Johannes Meier, Palæstræ Athleticæ Præfectus, artem arma dextre tractandi, et strenue vibrandi, eos docebit qui suam expetunt manuactionem.*'

The Cathedral of Upsala, the finest ecclesiastical structure in all Sweden, though it contains many subjects and monuments of interest from their relation to the history of the country, has none which is more deserving of notice, than the tomb of Linnæus. 'A simple entablature of stone,' says Dr C., 'now covers the mouldering reliques of this illustrious man. With what emotion of sacred enthusiasm will future generations approach the hallowed spot which has afforded a sepulchre to his remains! How powerful in its effect upon the heart will ever be the simple inscription, which marks the place where he lies,

'OSSA CAROLI A LINNÉ! Who will read these words unmoved, 'or wish to read more? For of the title that has been added ' (EQV. AVR.) every letter is superfluous.' In a small chapel, a monument has been erected to his memory. It is executed in porphyry, and bears the following inscription: *Carolo a Linné, Botanicorum Principi, Amici et Discipuli*. The letters are of bronze, gilded, and placed in full relief upon the stone.

From Upsala, Dr Clarke proceeded to Stockholm, where he obtained some interesting information respecting the state of literature and science. The Royal Library is open to the public, and is the first establishment of the kind in Sweden. It possesses many valuable and curious manuscripts; and the identical copy of the Vulgate belonging to Luther with his own notes written in the margin, and in the vacant spaces. In forming their libraries, the kings of Sweden adopted a system, which was afterwards practised by Buonaparte, that of claiming, as their share of the spoils of war, the literary collections of the people whom they conquered; but the Swedish plunderers, more fortunate than the French, have retained the treasures, which the latter have been obliged to restore to their owners. Sweden owes much to her sovereigns. Gustavus Adolphus, in the beginning of the 17th century, was the patron and encourager of science. He was succeeded by Christina, who invited men of genius and talents to her court. Louisa Ulrica gathered round the throne those who were distinguished for eminence in different branches of learning; and her son Gustavus III., by his own accomplishments, by his zeal, and passion for letters, imparted an energy to his subjects, which raised their character among the nations of Europe. But the Augustan age was now passed. 'There is nothing eminent,' says Dr Clarke, 'in the 'higher walks of literature; there are no names of superior 'excellence in the departments of Law, History or Poetry. Chemistry alone has made great progress.' The injudicious mode adopted by the Academy of Sciences in publishing their *Memoirs* in Swedish, is much to be regretted. How circumscribed might the fame even of Linnæus have been, had he preferred the use of his own language to that of Latin, in the composition of his works! Foreign literature and classical antiquities are the subjects to which the Academy of Belles Lettres chiefly direct their inquiries; but little attention has been bestowed by the northern nations of the Continent of Europe on the productions of Greek and Latin literature, while England, France, Germany, Italy and Holland, have sent forth numbers of eminent philologists, critics, and archaeologists. We observe, that Dr Clarke's account of Gustavus III. is somewhat at variance with that giv-

en by other writers. 'His memory,' says Acerbi, 'is cherished at this day by none but painters, musicians, and comedians. The sciences were treated by him with neglect.' And it is well known, that he allowed the Linnæan Collection, which was valued at only 1000*l.* to be purchased by an Englishman, and brought to this country.

On the 14th of December, our traveller and his companion quitted Stockholm. The winter had set in with considerable severity; and on the day of their departure, the mercury in Fahrenheit's thermometer fell in the evening to 21° below freezing. The roads were smooth and hard, and seemed like one mass of stone. The lakes which they passed were covered with boys skating, or with peasants pushing before them sledges, laden with different articles. An idea of the intensity of the cold may be formed from learning, that some Madeira wine in bottles in the well of the carriage became solid; when they attempted to pour it out, it would not flow, but fell at last slowly in successive drops. Fur caps, bear-skin pelisses, besides several flannel waistcoats, and gloves of sheepskin, covered by double gloves of fur and wool, could not protect them from feeling the severity of the weather. They arrived at Grieslham, and set sail for Oland, where they arrived after a stormy passage. As the ice was not strong enough to bear their carriage, they proceeded across the Vargatta Sound in sledges. The atmosphere was clear and dry. In the day-time they had an unclouded sun; at night 'the glorious firmament displayed an uninterrupted flood of light, heightened by the aurora borealis.' The Olanders are a strong and vigorous people, but short; they are dram-drinkers from their youth; and to this custom Dr Clarke ascribes both their small size and the frequency of dwarfs in the northern countries of Europe. An Oland hut, in which they stopped some time, gave them an opportunity of seeing a little of the interior economy of these humble dwellings.

'A more curious sight could hardly be imagined. At our entrance, nobody was up. The members of the family held a conversation with our boatmen, but we saw none of them. The floor of the only room they had, and of which we had taken possession, was covered with straw and sedge, according to the custom of the country at Christmas, and once a practice, even in Kings' houses, in England. Peeping from behind their hiding-places, as soon as they perceived that strangers had entered this apartment, they were all stirring; and presently there fell out from every side of the room the naked figures of men, women, boys and girls, who had been piled in tiers one above another, as in a ship's cabin; being concealed from view by so many sheep-skins, which were suspended as curtains before their coats.

This motley group, amounting in all to thirteen persons, without a rag to cover them, squatted themselves upon the floor in the middle of the chamber, and began altogether the business of their brief toilette. The women put on two pairs of woollen hose, and over these a pair of greasy boots. The toilette being ended, they all with one accord began to blow their noses into the palms of their hands, and to wipe them upon their clothes. Then the men kindled their tobacco-pipes; and a universal hawking and spitting commenced. Nor were the women unoccupied; for a large fire being lighted, the females of the family quietly took up their petticoats, and sate before it, very leisurely gartering their stockings. This being done, a girl now handed round their breakfast; it consisted of, first, a dram to each person, served in a small silver cup; secondly, a portion of black biscuit, with about two ounces of fresh butter. At this meal they sate without ceremony or order, each where and with whom he pleased, chatting and laughing in groups, apparently contented and happy. It was rather new, to see mothers with children at their breasts disengage their tender infants from the nipple, to pour down their little throats a portion of the dram which came to the mother's share; but still more remarkable to see these young dram-drinkers lick their lips, roll their eyes about, and stretch out their puny hands, as craving more; showing how accustomed they were to this beverage. Perhaps the practice may explain the frequency of dwarfs in the Northern countries of *Europe*; as in *Poland*, *Russia*, and *Sweden*. But the author, venturing a mild remonstrance upon seeing an affectionate mother pouring brandy down her child's throat, was told, "It is good for them: our children are not troubled with wind or with rickets; and our adults," giving one of the sturdy peasants a notable thump, "see how hardy and healthy they are!" There was no reply to such an appeal; for of the *Olanders*, in general, it may be said, that a more vigorous race can hardly be found; and all of them have imbibed with their milk their morning drams of brandy. It is in scenes like that which the interior of this hut exhibited, the mind is forcibly struck with a conviction of the relative nature of human happiness; that it belongs to no rank or situation in life as a peculiar possession; but that in all stations, gifted with health, and virtue, and just government, Providence has vouchsafed an equal portion of this blessing. p. 328.

The inhabitants of the Oland Isles amount to between five and six thousand. The agricultural produce of the land is trifling; but they carry on a considerable trade in several kinds of fish, which are conveyed in well-vessels, and salted in the reservoirs at Stockholm. The increase of wolves among these islands, and in all Sweden and Finland, of late years, is one of the most remarkable events in the history of the country. This change began in the time of Linnæus, who, in

his *Fauna Suecica*, having mentioned the wolf as common in the Swedish woods, adds these words: '*Ante viginti annos rarius animal in Sueciâ.*' And the increase is now so great as to call the attention of the government towards their destruction. They next reached Sattunga, occupying a central point amidst the innumerable rocks and inlets which almost fill the mouth of the Gulf of Bothnia. In these islands, the Swedish language is said to exist in its most ancient and pure state; and approaches so near to the English, that Dr Clarke's servant was able to understand, and sometimes to converse with the inhabitants; Dr Thomson has also remarked, that, to a native of Britain, the Swedish language is not attended with much difficulty. The occupation of the islanders in winter, consists in fishing, or in killing seals. Few people are such expert marksmen: The seals are forced to come up from the water for air, through some apertures in the ice: the moment a seal-shooter sees one of them thrusting his nose through the hole to breathe, he levels his gun and kills it.

Our author pursued his journey across the frozen channels of the Gulf of Bothnia, suffering from the extreme severity of the weather; nor could any thing be conceived more revolting or disgusting, than the manners and habits of the people in some of the hovels in which he was obliged to pass the night. In this part of the route, he noticed a remarkable phenomenon. When the door of the apartment was opened, the rushing in of the cold air converted the warm vapour of the room into a whirling column or cloud of snow. Maupertuis and the French academicians made a similar remark while they were on their journey to Torneo, to measure a degree for ascertaining the figure of the earth. Dr Clarke next reached Obo, the largest town, after Stockholm and Gottenburg, in all Scandinavia. Its name as an University, and the character of its learned men, are scarcely known, on account of the want of facilities of communication with the rest of Europe; but many of the members would have done honour to any seat of science. Among those to whom Dr Clarke was introduced, we may mention Frantzen the poet, Professor of History; and Professor Porthan well known for his valuable works relating to the ancient history of his country. The Chemical department was under the superintendence of Gadolin, distinguished by his various scientific discoveries; and the Botanical chair was filled by the celebrated Hellenius. The library contains a few Greek and Latin manuscripts, some early editions of the classics, and many works relating to Swedish and Russian history.

In comparing the merits of the Universities of Obo and Up-

sala, Dr Clarke does not hesitate to give the palm of superiority to the former, where science was the subject of real and industrious research; but in the latter, was made more the matter of conversation. It is probable, that the union of Finland to Russia, an event so much deprecated by our author, and which has taken place since he visited the country, will prove advantageous to Obo. We find, from Mr James, that the buildings of the college have been renewed at the expense of the present Emperor of Russia, who now carries on the plan that was intended to have been put into execution by Gustavus IV.

Although many of the ornaments in the Cathedral of Obo have been destroyed by conflagrations, and various calamities to which it has been exposed, the structure itself is an object of curiosity. The style of architecture observed in the interior is Gothic; but the outside exhibits a pile of plain brick-work. There are many monuments of interest; and Dr Clarke has, with very commendable industry, collected and preserved many inscriptions relating to bishops, saints, heroes and warriors, of former times. There is a monument raised to the memory of a Scotch officer in the Swedish service, Samuel Cockburne, who died in 1641, with an inscription in Latin *verse*—though Dr C., who copies it, does not seem aware of the fact.

As the time for the annual fair was now approaching, the inhabitants, from distant provinces, arrived in numbers every day; and this gave our author an opportunity of examining their modes of life, and customs, manners, and dresses. A great resemblance is observable between the Finns and Laplanders. The Russian traders were distinguished by their long bushy beards, naked necks, and lambskin caps; the Finns by dark unbending hair, sallow countenances, eyes extended length-ways and half closed, sharp chins, and elevated cheek-bones. The trade carried on with these tribes, from the interior of the country, constitutes a principal part of the commerce of Obo. Brandy and tobacco are the articles in the greatest request among the Finns.

The ancient history of the Finnish tribes is involved in great obscurity. It appears, from the information communicated to Dr Clarke by Professor Porthan, that their language is a dialect of that which is spoken by the Lapps, by many of the Russian nations, and, what is more remarkable, it has been identified with the Hungarian. The authors of the *Universal History*, we observe, deny the resemblance between the Finnish and Lapland idioms; but the instances quoted by Dr Clarke seem decisive of the question. Our author received from Professor Porthan a specimen of Finnish poetry, written by a girl on the

absence of her lover. He has inserted the original with a literal translation; but, on comparing it with the version of Acerbi, we find some difference: the latter has also stated, that the girl was a servant of the clergyman of the village where she resided; a circumstance omitted by Dr Clarke, but necessary to be noticed, in order to understand the allusion in the last stanza. We subjoin part of the composition of the Finnish Sappho; and leave it to our readers who are acquainted with the original, to decide, whether the error in the translation belongs to Dr Clarke or to Mr Acerbi.

Dr Clarke's Version.

' 1. If my well-known should come, my often-beholded should appear; I would snatch a kiss from his mouth, if it were tainted with wolf's blood; I would seize and press his hand, if a serpent were at the end of it. 2. If the wind had a mind, if the breeze had a tongue, to bear and bring back the vows which two lovers exchange! 3. All dainties would I disregard, even the vicar's savoury meat; rather than forsake the friend of my heart, the wild game of my summer's hunting, the darling of my winter's taming.'

We subjoin Acerbi's version of the second and third stanzas, which is evidently less literal.

' Alas! why have not the winds understanding, and why is the breeze bereft of speech! The winds might exchange sentiments between my beloved and me; the breezes might every instant carry my words to him, and bring back his to me. How, then, would the delicacies of the rector's table be neglected! how inattentive should I be to the dress of his daughter! I should leave every thing to attend upon my beloved, who is the dear object of my summer thoughts and winter cares.'

There is nothing in the journey from Obo, through Finland, to Petersburg, that calls for any particular remark. The route which, in the summer season, is distinguished by great natural beauties, exhibits, in the winter, a dull uniformity of scenery. The whole of Finland, since the period when Dr Clarke visited the country, has been annexed to Russia; and Sweden, on the other hand, has gained an important accession of territory in the possession of Norway. Dr Clarke unfortunately arrived at Petersburg when the Imperial throne was filled by Paul, respecting whom he has communicated many anecdotes, illustrating the absurdity and insanity of his conduct; and presenting altogether a picture of folly and caprice almost without example in the history of the species. We are not disposed to question the accuracy of the statements made by Dr Clarke; and, indeed, if any confirmation of them were necessary, we might find it in a work with which he was not acquainted, an Account of

the Reign of Paul, written by M. Depping, and inserted in the Continuation of Levesque's History of Russia. We translate a few passages from the French work, which the reader may compare with Dr Clarke's narrative.

' Exiles and arrests continued to take place every day. Numerous *kibitkas* were seen on the road conveying prisoners to Siberia, or the frontiers of Prussia. These departures were made with the greatest haste; the exiled person was often allowed only an hour to arrange his affairs; and was then sent to the rigorous climate of Siberia, without being allowed to provide himself with any means of defence against the severity of the cold. The anger of Paul was directed indiscriminately against all classes of society. Courtiers, men of letters, persons of military rank, merchants, and women,—all suffered the punishment of exile, or the knout, for trifling offences. He had a horror of round hats and pantaloons, and would not allow them to be worn. In order to abolish the custom of wearing them, he acted as Peter the First did, when he wished that his subjects should shave their beards. Cossacks had orders to seize and tear every round hat which they observed in the streets. This singular determination occasioned strange scenes, which would have afforded amusement, if they had not been accompanied with acts of violence. Some were beaten by the soldiers, and sent to the army, because they resisted those who attempted to take away their hats: a person in office lost his place for having appeared in a frock coat, and with a round hat. An Englishman, whose hat had been seized by a serjeant, said to him, examining him from head to foot "How I pity you for being a Russian!" Another gentleman, who was not possessed of an equal degree of coolness, resisted, and was beaten, and sent to prison.*

Dr Clarke, at the close of his work, in speaking of the death of Peter the Third, delivers it as his own opinion, that Peter was acquainted with the licentious intercourse carried on between his wife and Orloff, and with the plans they had formed for seizing the reins of government;—that he intended to take some steps to defeat their schemes;—that the Empress and the conspirators, seeing their danger, were in some sort driven to those measures which ended in his destruction. The friends of Catherine endeavour to acquit her of all participation in the foul deed of the murder of Peter; and the Prince de Ligne, in order to show that she could have no intention of committing the crime, refers to an anecdote, which we confess appears to

us to be far from conclusive. Panin, one day, in the presence of Catherine, when Peter was the subject of conversation, called him 'the Grand Turk :—' 'If he is,' said Catherine, laughing, 'we must strangle him : ' and the Prince de Ligne infers, from this light and open manner of speaking, that she could have no serious thoughts of committing such a crime. The conduct of few sovereigns has been the subject of so much indiscriminate censure and praise as that of this extraordinary woman. The great events that signalized her reign plainly evinced, that the cabinet of Russia was guided by as much talent and sagacity as that of any power in Europe. The enlightened and tolerating spirit of her principles of legislation—her endeavours to remove, by instruction, the ignorance and prejudices of her subjects—to introduce the blessings of civilization into remote deserts and solitudes of her empire, by colonies of industrious citizens, have not received more praise than they merit. But it is impossible to offer any justification of the vices which stained her moral character, to defend the corruption and profligacy of her personal favourites, or remove the suspicion that attaches to her memory, of having been instrumental in the deposition and murder of her husband.

It appears from the Preface to the volume, that Dr Clarke intended, if his life had been spared, to have offered some vindication of his former account of Russia, and to have referred to various letters and documents from persons who had resided in that country, in confirmation of his original statements. We cannot say that the loss of this diatribe has very much enhanced our regret at the untimely fate of its excellent author.* In respect of his own individual veracity, we believe that no confirmation could ever have been required ; and no accumulation of concurring opinions could well have persuaded us that he had not generalized too rashly and uncharitably, and ascribed to a whole nation defects and vices, of which his own very limited experience had, in a very unfavourable conjuncture of its story, presented him with some examples. It is needless to say, that, to a disposition not only candid, but generous in the highest degree, Dr Clarke added something of that irritability and susceptibility of sudden impressions, which seems to belong to warm feelings and sanguine expectations ; and that the very quickness and sagacity, which often enabled him to make the most of slight opportunities of observation, was apt to mislead him, when his prejudices had been excited by any close contact with new forms of excellence or deformity. That the bulk of the Russian people have the ordinary vices of slaves, and, with something of an Asiatic versatility and quickness of perception,

are sensual, faithless and thievish, no one can be surprised to learn; and that many of their masters have contracted the vices, which have punished and degraded the masters of slaves in all generations, is equally credible. But that all the Russian nobles are given to pilfering and fraud, that their persons are covered with vermin, and their choicest hours spent in brutal intemperance, is known, we may say, not to be true, and is not rendered in any degree probable, by the testimony of our learned and lively traveller as to his own observations during his brief and cursory residence in their capital. Their Government, it is admitted, is detestable; and has displayed more of the worst abuses of despotism, in our own times, than we had thought compatible with the age to which it has survived, or the quarter of the globe to which it professes to belong. From the vulgar love of mere conquest and aggrandizement, it has lately proceeded to the loftier task of putting down freedom, even in countries over which it does not yet aspire to reign. In contempt of its constitution, and abhorrence of its public policy, Dr Clarke himself cannot go beyond us; but we believe that it has many subjects who feel sorrow and resentment at these features of degradation, and who are every day becoming more worthy of that better government, for which we have no doubt that they are destined.

ART. IX. 1. *Annals of the Parish, or the Chronicle of Dalmailing, during the Ministry of the Rev. Micah Balwhidder.* Written by Himself. 1 vol. 12mo. pp. 400. Blackwood. Edinburgh, 1819.

2. *The Ayrshire Legatees, or the Pringle Family.* By the Author of *Annals of the Parish*, &c. 1 vol. 12mo. pp. 395. Blackwood. Edinburgh, 1820.

3. *The Provost.* By the Author of *Annals of the Parish, Ayrshire Legatees*, &c. 1 vol. 12mo. pp. 360. Blackwood. Edinburgh, 1820.

4. *Sir Andrew Wyllie of that Ilk.* By the Author of *Annals of the Parish*, &c. 3 vols. 12mo. Blackwood. Edinburgh, 1822.

5. *The Steam Boat.* By the Author of *Annals of the Parish*, &c. 1 vol. 12mo. Blackwood. Edinburgh, 1822.

6. *The Entail, or the Lairds of Grippy.* By the Author of *Annals of the Parish, Sir Andrew Wyllie*, &c. 3 vols. 12mo. Blackwood. Edinburgh, 1823.

7. *Ringan Gilhaize, or the Covenanters.* By the Author of *Annals of the Parish*, &c. 3 vols. 12mo. Blackwood. Edinburgh, 1823.
8. *Valerius, a Roman Story.* 3 vols. 12mo. Blackwood. Edinburgh, 1820.
9. *Lights and Shadows of Scottish Life.* 1 vol. 8vo. Blackwood. Edinburgh, 1822.
10. *Some Passages in the Life of Mr Adam Blair, Minister of the Gospel at Cross-Meikle.* 1 vol. 8vo. Blackwood. Edinburgh, 1822.
11. *The Trials of Margaret Lindsay.* By the Author of *Lights and Shadows of Scottish Life.* 1 vol. 8vo. Blackwood. Edinburgh, 1823.
12. *Reginald Dalton.* By the Author of *Valerius*, and *Adam Blair.* 3 vols. 8vo. Blackwood. Edinburgh, 1823.

WE have been sometimes accused, we observe, of partiality to the writers of our own country, and reproached with helping middling Scotch works into notice, while far more meritorious publications in England and Ireland have been treated with neglect. We take leave to say, that there could not possibly be a more unjust accusation: and the list of books which we have prefixed to this article, affords of itself, we now conceive, the most triumphant refutation of it. Here is a set of lively and popular works, that have attracted, and very deservedly, a large share of attention in every part of the empire—issuing from the press, successively for four or five years, in this very city, and under our eyes, and not hitherto honoured by us with any indication of our being even conscious of their existence. The causes of this long neglect it can now be of no importance to explain. But sure we are, that our ingenious countrymen have far greater reason to complain of it, than any aliens can have to impute this tardy reparation to national partiality.

The works themselves are evidently too numerous to admit of our now giving more than a general account of them:—and indeed, their authors emulate their great prototype so successfully in the rapid succession of their performances, that, even if they had not been so far ahead of us at the starting, we must soon have been reduced to deal with them as we have done with him, and only to have noticed their productions when they had grown up into groups and families—as they increas-

ed and multiplied in the land. In intimating that we regard them as imitations of the inimitable novels,—which *we*, who never presume to peep under masks, still hold to be by an author unknown,—we have already exhausted more than half their general character. They are inferior certainly—and what is not? to their great originals. But they are the best copies which have yet been produced of them; and it is not a little creditable to the genius of our beloved country, that, even in those gay and any walks of literature from which she had been so long estranged, an opening was no sooner made, by the splendid success of one gifted Scotsman, than many others were found ready to enter upon them, with a spirit of enterprise, and a force of invention, that promised still farther to extend their boundaries—and to make these new adventurers, if not formidable rivals, at least not unworthy followers of him by whose example they were roused.

There are three authors, it seems, to the works now before us;—so at least the title-pages announce; and it is a rule with us, to give implicit faith to those solemn intimations. We think, indeed, that without the help of that oracle, we should have been at no loss to ascribe all the works which are now claimed by the author of the *Annals of the Parish*, to one and the same hand; But we should certainly have been inclined to suppose, that there was only one author for all the rest,—with the exception, perhaps, of *Valerius*, which has little resemblance, either in substance or manner, to any of those with which it is now associated.

In the arduous task of imitating the great novelist, they have apparently found it necessary to resort to the great principle of division of labour; and yet they have not come near to equal the work of his single hand. The author of the *Parish Annals* seems to have sought chiefly to rival the humorous and less dignified parts of his original; by large representations of the character and manners of the middling and lower orders in Scotland, intermingled with traits of sly and sarcastic sagacity, and occasionally softened and relieved by touches of unexpected tenderness and simple pathos, all harmonized by the same truth to nature and fine sense of national peculiarity. In these delineations there is more vulgarity, both of style and conception, and less poetical invention, than in the corresponding passages of the works he aspires to imitate; but, on the other hand, there is more of that kind of humour which depends on the combination of great naïveté, indolence and occasional absurdity, with natural good sense, and taste and kind feelings in the principal characters—such combinations as Sir Roger De Coverley, the

Vicar of Wakefield, and My Uncle Toby, have made familiar to all English readers, but of which we have not hitherto had any good Scottish representative. There is also more systematic, though very good-humoured, sarcasm, and a more distinct moral, or unity of didactic purpose, in most of his writings, than it would be easy to discover in the playful, capricious, and fanciful sketches of his great master.

The other two authors have formed themselves more upon the poetical, reflective, and pathetic parts of their common model; and have aimed at emulating such beautiful pictures as that of Mr Peter Pattison, the blind old women in *Old Mortality*; and the *Bride of Lammermoor*, the courtship at the Mermaid's Well, and, generally, his innumerable and exquisite descriptions of the soft, simple, and sublime scenery of Scotland, as viewed in connexion with the character of its rustic inhabitants. Though far better skilled than their associate in the art of composition, and chargeable, perhaps, with less direct imitation, we cannot but regard them as much less original, and as having performed, upon the whole, a far easier task. They have no variety of style, and but little of invention,—and are *mannerists* in the strongest sense of that term. Though unquestionably pathetic in a very powerful degree, they are pathetic, for the most part, by the common recipes, which enable any one almost to draw tears who will condescend to employ them. They are mighty religious too,—but apparently on the same principle; and, while their laboured attacks on our sympathies are felt, at last, to be somewhat importunate and puerile, their devotional orthodoxies seem to tend, every now and then, a little towards cant. This is perhaps too harshly said; and is more, we confess, the result of the second reading than the first, and suggested rather by a comparison with their great original, than an impression of their own independent merits. Compared with that high standard, it is impossible not to feel that they want manliness, freedom, and liberality; and, while they enlarge, in a sort of pastoral, emphatic and melodious style, on the virtues of our cottagers, and the apostolical sanctity of our ministers and elders, the delights of pure affection, and the comforts of the Bible, are lamentably wanting in that bold and free vein of invention, that knowledge of the world, and rectifying spirit of good sense, which redeem all that great author's flights from the imputation either of extravagance or affectation, and give weight, as well as truth, to his most poetical delineations of nature and of passion. But, though they cannot pretend to this rare merit, which has scarcely fallen to the share of more than one since the days of Shakespeare, there is no

doubt much beautiful writing, much admirable description, and much both of tender and of lofty feeling, in the volumes of which we are now speaking; and though their inferior and borrowed lights are dimmed in the broader blaze of the luminary, who now fills our Northern sky with his glory, they still hold their course distinctly within the orb of his attraction, and make a visible part of the splendour which draws to that quarter of the heavens the admiration of so many distant eyes.

We must now, however, say a word or two on the particular works we have enumerated; among which, and especially in the first series, there is very great difference of design, as well as inequality of merit. The first with which we happened to become acquainted, and, after all, perhaps the best and most interesting of the whole, is that entitled '*Annals of the Parish,*' comprising, in one little volume of about 400 pages, the domestic chronicle of a worthy minister, on the coast of Ayrshire, for a period of no less than 51 years, from 1760 to 1810. The primitive simplicity of the pastor's character, tinged as it is by his professional habits and sequestered situation, form but a part of the attraction of this work. The brief and natural notices of the public events that signalized the long period through which it extends, and the slight and transient effects they produced on the tranquil lives and peaceful occupations of his remote parishioners, have not only a natural, we think, but a moral and monitorial effect; and, while they revive in our own breasts the almost forgotten impressions of our childhood and early youth, as to the same transactions, make us feel the actual insignificance of those successive occurrences which, each in its turn, filled the minds of its contemporaries,—and the little real concern which the bulk of mankind have in the public history of their day. This quiet and detailed retrospect of fifty years, brings the true moment and value of the events it embraces to the test, as it were, of their actual operation on particular societies; and helps to dissipate the illusion, by which private persons are led to suppose, that they have a personal interest in the wisdom of cabinets, or the madness of princes. The humble simplicity of the chronicler's character assists, no doubt, the sobering effect of his narrative. The natural and tranquil manner in which he puts down great things by the side of little—and considers as exactly on the same level, the bursting of the parish mill-dam and the commencement of the American troubles—the victory of Admiral Rodney and the donation of 50*l.* to the kirk-session,—are all equally edifying and agreeable; and illustrate, in a very pleasing way, that law of intellectual, as well as of physical optics, by which small things at hand, uniformly appear

greater than large ones at a distance. The great charm of the work, however, is in the traits of character which it discloses, and the commendable brevity with which the whole chronicle is digested. We know scarcely any instance in which a modern writer has shown such forbearance and consideration for his readers. With very considerable powers of humour, the ludicrous incidents are never dwelt upon with any tediousness, nor pushed to the length of burlesque or caricature—and the more seducing touches of pathos with which the work abounds, are intermingled and cut short with the same sparing and judicious hand;—so that the temperate and natural character of the pastor is thus, by a rare merit and felicity, made to preponderate over the tragic and comic genius of the author. That character is, as we have already hinted, as happily conceived as it is admirably executed—contented, humble, and perfectly innocent and sincere—very orthodox, and zealously Presbyterian, without learning or habits of speculation—soft-hearted and full of indulgence and ready sympathy, without any enthusiasm or capacity of devoted attachment—given to old-fashioned prejudices, with an instinctive sagacity in practical affairs—and unconsciously acute in detecting the characters of others, and singularly awake to the beauties of nature, without a notion either of observation or of poetry—very patient and primitive in short, indolent and gossiping, and scarcely ever stirring, either in mind or in person, beyond the limits of his parish. The style of the book is curiously adapted to the character of the supposed author—very genuine homely Scotch in the idiom and many of the expressions—but tinctured with scriptural phrases, and some relics of college learning—and all digested in the grave and methodical order of an old-fashioned sermon.

After so much praise, we are rather afraid to make any extracts—for the truth is, that there is not a great deal of matter in the book, and a good deal of vulgarity—and that it is only good-natured people, with something of the annalist's own simplicity, that will be as much pleased with it as we have been. For the sake of such persons, however, we will venture on a few specimens. Here is the description of Mrs Malcolm.

‘Secondly. I have now to speak of the coming of Mrs Malcolm. She was the widow of a Clyde shipmaster, that was lost at sea with his vessel. She was a genty body, calm and methodical. From morning to night she sat at her wheel, spinning the finest flint, which suited well with her pale hands. She never changed her widow's weeds, and she was aye as if she had just been ta'en out of a bandbox. The tear was aften in her e'e when the bairns were at the school; but when they came home, her spirit was lighted up with gladness, although,

poor woman, she had many a time very little to give them. They were, however, wonderful well-bred things, and took with thankfulness whatever she set before them, for they knew that their father, the breadwinner, was away, and that she had to work sore for their bit and drap. I dare say, the only vexation that ever she had from any of them, on their own account, was when Charlie, the eldest laddie, had won fourpence at pitch and toss at the school, which he brought home with a proud heart to his mother. I happened to be daunrin' bye at the time, and just looked in at the door to say gude night. And there was she sitting with the silent tear on her cheek, and Charlie greeting as if he had done a great fault, and the other four looking on with sorrowful faces. Never, I am sure, did Charlie Malcolm gamble after that night.

' I often wondered what brought Mrs Malcolm to our clachan, instead of going to a populous town, where she might have taken up a huxtry-shop, as she was but of a silly constitution, the which would have been better for her than spinning from morning to far in the night, as if she was in verity drawing the thread of life. But it was, no doubt, from an honest pride to hide her poverty; for when her daughter Effie was ill with the measles—the poor lassie was very ill—nobody thought she could come through, and when she did get the turn, she was for many a day a heavy handful;—our session being rich, and nobody on it but cripple Tammy Daidles, that was at that time known through all the country side for begging on a horse, I thought it my duty to call upon Mrs Malcolm in a sympathising way, and offer her some assistance, but she refused it. "No, sir," said she. "I canna take help from the poor's box, although it's very true that I am in great need; for it might hereafter be cast up to my bairns, whom it may please God to restore to better circumstances when I am no to see't; but I would fain borrow five pounds, and if, sir, you will write to Mr Maitland, that is now the Lord Provost of Glasgow, and tell him that Marion Shaw would be obliged to him for the lend of that soom, I think he will not fail to send it."

' I wrote the letter that night to Provost Maitland, and, by the return of the post, I got an answer, with twenty pounds for Mrs Malcolm, saying, "that it was with sorrow he heard so small a trifle could be serviceable." When I took the letter and the money, which was in a bank-bill, she said, "This is just like himsel'." She then told me, that Mr Maitland had been a gentleman's son of the east country, but driven out of his father's house, when a laddie, by his step-mother; and that he had served as a servant lad with her father, who was the Laird of Yillcogie, but ran through his estate, and left her, his only daughter, in little better than beggary with her auntie, the mother of Captain Malcolm, her husband that was. Provost Maitland in his servitude had ta'en a notion of her; and when he recovered his patrimony, and had become a great Glasgow merchant, on hearing how she was left by her father, he offered to marry her, but she

had promised herself to her cousin the Captain, whose widow she was. He then married a rich lady, and in time grew, as he was, Lord Provost of the City: but his letter with the twenty pounds to me, shewed that he had not forgotten his first love. It was a short, but a well-written letter, in a fair hand of write, containing much of the true gentleman; and Mrs Malcolm said, "Who knows but out of the regard he once had for their mother, he may do something for my five helpless orphans."—*Annals of the Parish*, pp. 16–21.

Charles afterwards goes to sea, and comes home unexpectedly.

'One evening, towards the gloaming, as I was taking my walk of meditation, I saw a brisk sailor laddie coming towards me. He had a pretty green parrot, sitting on a bundle, tied in a Barcelona silk handkerchief, which he carried with a stick over his shoulder, and in this bundle was a wonderful big nut, such as no one in our parish had ever seen. It was called a cocker-nut. This blithe callant was Charlie Malcolm, who had come all the way that day his leaful lane, on his own legs from Greenock, where the Tobacco trader was then 'livering her cargo. I told him how his mother, and his brothers, and his sisters were all in good health, and went to convoy him home; and as we were going along, he told me many curious things, and he gave me six beautiful yellow limes, that he had brought in his pouch all the way across the seas, for me to make a bowl of punch with, and I thought more of them than if they had been golden guineas, it was so mindful of the laddie.

'When we got to the door of his mother's house, she was sitting at the fire-side, with her three other bairns at their bread and milk, Kate being then with Lady Skimmilk, at the Breadland, sewing. It was between the day and dark, when the shuttles stand still till the lamp is lighted. But such a shout of joy and thankfulness as rose from that hearth, when Charlie went in! The very parrot, ye would have thought, was a participator, for the beast gied a skraik that made my whole head dirl; and the neighbours came flying and flocking to see what was the matter, for it was the first parrot ever seen within the bounds of the parish, and some thought it was but a foreign hawk, with a yellow head and green feathers.'—*Ibid*, pp. 44, 45.

The good youth gets into the navy, and distinguishes himself in various actions. This is the catastrophe.

'But, oh! the wicked wastry of life in war. In less than a month after, the news came of a victory over the French fleet, and by the same post I got a letter from Mr Howard, that was the midshipman who came to see us with Charles, telling me that poor Charles had been mortally wounded in the action, and had afterwards died of his wounds. "He was a hero in the engagement," said Mr Howard, "and he died as a good and a brave man should."—These tidings gave me one of the sorest hearts I ever suffered, and it was long before I could gather fortitude to disclose the tidings

to poor Charles's mother. But the callants of the school had heard of the victory, and were going shouting about, and had set the steeple bell a-ringing, by which Mrs Malcolm heard the news; and knowing that Charles's ship was with the fleet, she came over to the Manse in great anxiety, to hear the particulars, somebody telling her that there had been a foreign letter to me by the post-man.

'When I saw her I could not speak, but looked at her in pity, and the tear fleeing up into my eyes, she guessed what had happened. After giving a deep and sore sigh, she inquired, "How did he behave? I hope well, for he was aye a gallant laddie!"—and then she wept very bitterly. However, growing calmer, I read to her the letter, and when I had done, she begged me to give it her to keep, saying, "It's all that I have now left of my pretty boy; but its mair precious to me than the wealth of the Indies;" and she begged me to return thanks to the Lord, for all the comforts and manifold mercies with which her lot had been blessed, since the hour she put her trust in Him alone, and that was when she was left a pennyless widow, with her five fatherless bairns. It was just an edification of the spirit, to see the Christian resignation of this worthy woman. Mrs Balwhidder was confounded, and said, there was more sorrow in seeing the deep grief of her fortitude, than tongue could tell.

'Having taken a glass of wine with her, I walked out to conduct her to her own house, but in the way we met with a severe trial. All the weans were out parading with napkins and kail-blades on sticks, rejoicing and triumphing in the glad tidings of victory. But when they saw me and Mrs Malcolm coming slowly along, they guessed what had happened, and threw away their banners of joy; and, standing all up in a row, with silence and sadness, along the kirk-yard wall as we passed, showed an instinct of compassion that penetrated to my very soul. The poor mother burst into fresh affliction, and some of the bairns into an audible weeping; and, taking one another by the hand, they followed us to her door, like mourners at a funeral. Never was such a sight seen in any town before. The neighbours came to look at it, as we walked along, and the men turned aside to hide their faces, while the mothers pressed their babies fondlier to their bosoms, and watered their innocent faces with their tears.

'I prepared a suitable sermon, taking as the words of my text, "Howl, ye ships of Tarshish, for your strength is laid waste." But when I saw around me so many of my people, clad in complimentary mourning for the gallant Charles Malcolm, and that even poor daft Jenny Gaffaw, and her daughter, had on an old black ribbon; and when I thought of him, the spirited laddie, coming home from Jamaica, with his parrot on his shoulder, and his limes for me, my heart filled full, and I was obliged to sit down in the pulpit and drop a tear.'—*Annals of the Parish*, pp. 214–218.

We like these tender passages the best—but the reader should have a specimen of the humorous vein also. The following we think excellent.

‘ In the course of the summer, just as the roof was closing in of the school-house, my lord came to the castle with a great company, and was not there a day till he sent for me to come over on the next Sunday, to dine with him; but I sent him word that I could not do so, for it would be a transgression of the Sabbath, which made him send his own gentleman, to make his apology for having taken so great a liberty with me, and to beg me to come on the Monday, which I accordingly did, and nothing could be better than the discretion with which I was used. There was a vast company of English ladies and gentlemen, and his lordship, in a most jocose manner, told them all how he had fallen on the midden, and how I had clad him in my clothes, and there was a wonder of laughing and diversion: But the most particular thing in the company, was a large, round-faced man, with a wig, that was a dignitary in some great Episcopalian church in London, who was extraordinary condescending towards me, drinking wine with me at the table, and saying weighty sentences in a fine style of language, about the becoming grace of simplicity and innocence of heart, in the clergy of all denominations of Christians, which I was pleased to hear; for really he had a proud rell countenance, and I could not have thought he was so mortified to humility within, had I not heard with what sincerity he delivered himself, and seen how much reverence and attention was paid to him by all present, particularly by my lord’s chaplain, who was a pious and pleasant young divine, though educated at Oxford for the Episcopalian persuasion.

‘ One day soon after, as I was sitting in my closet conning a sermon for the next Sunday, I was surprised by a visit from the dean, as the dignitary was called. He had come, he said, to wait on me as rector of the parish, for so it seems they call a pastor in England, and to say, that, if it was agreeable, he would take a family dinner with us before he left the castle. I could make no objection to his kindness, but said I hoped my lord would come with him, and that we would do our best to entertain them with all suitable hospitality. About an hour or so after he had returned to the castle, one of the flunkies brought a letter from his lordship to say, that not only he would come with the dean, but that they would bring the other guests with them, and that, as they could only drink London wine, the butler would send me a hamper in the morning, assured, as he was pleased to say, that Mrs Balwhidder would otherwise provide good cheer.

‘ This notification, however, was a great trouble to my wife, who was only used to manufacture the produce of our glebe and yard to a profitable purpose, and not used to the treatment of deans and lords, and other persons of quality. However, she was determined to stretch a point on this occasion, and we had, as all present declared, a

charming dinner ; for fortunately one of the sows had a litter of pigs a few days before, and, in addition to a goose, that is but a boss bird, we had a roasted pig, with an apple in its mouth, which was just a curiosity to see ; and my lord called it a tythe pig, but I told him it was one of Mrs Balwhidder's own clecking, which saying of mine made no little sport when expounded to the dean.

' But, och how ! this was the last happy summer that we had for many a year in the parish ; and an omen of the dule that ensued, was in a sacrilegious theft that a daft woman, Jenny Gaffaw, and her idiot daughter, did in the kirk, by tearing off and stealing the green serge lining of my lord's pew, to make, as they said, a hap for their shoulders in the cold weather—saving, however, the sin, we paid no attention at the time to the mischief and tribulation that so unheard of a trespass boded to us all. It took place about Yule, when the weather was cold and frosty, and poor Jenny was not very able to go about seeking her meat as usual. The deed, however, was mainly done by her daughter, who, when brought before me, said, " her poor mother's back had mair need of claes than the kirk-boards," which was so true a thing, that I could not punish her, but wrote anent it to my lord, who not only overlooked the offence, but sent orders to the servants at the castle to be kind to the poor woman, and the natural, her daughter.'—*Annals of the Parish*, pp. 136–141.

We add the description of the first dancing-master that had been seen in these parts in the year 1762.

' Also a thing happened in this year, which deserves to be recorded, as manifesting what effect the smuggling was beginning to take in the morals of the country side. One Mr Macskipnish, of Highland parentage, who had been a valet-de-chambre with a Major in the campaigns, and taken a prisoner with him by the French, he having come home in a cartel, took up a dancing-school at Irville, the which art he had learned in the genteelest fashion, in the mode of Paris, at the French court. Such a thing as a dancing-school had never, in the memory of man, been known in our country side ; and there was such a sound about the steps and cotillions of Mr Macskipnish, that every lad and lass, that could spare time and siller, went to him, to the great neglect of their work. The very bairns on the loan, instead of their wonted play, gaed linking and louping in the steps of Mr Macskipnish, who was, to be sure, a great curiosity, with long spindle legs, his breast shot out like a duck's, and his head powdered and frizzled up like a tappit-hen. He was, indeed, the proudest peacock that could be seen, and he had a ring on his finger, and when he came to drink his tea at the Breadland, he brought no hat on his head, but a droll cockit thing under his arm, which, he said, was after the manner of the courtiers at the petty suppers of one Madam Pompadour, who was at that time the concubine of the French king.

' I do not recollect any other remarkable thing that happened in

this year. The harvest was very abundant, and the meal so cheap, that it caused a great defect in my stipend, so that I was obligated to postpone the purchase of a mahogany scrutoire for my study, as I had intended. But I had not the heart to complain of this; on the contrary, I rejoiced thereat, for what made me want my scrutoire till another year, had carried blitheness into the hearth of the cotter, and made the widow's heart sing with joy; and I would have been an unnatural creature, had I not joined in the universal gladness, because plenty did abound."—*Annals of the Parish*, pp. 30–32.

We shall only try the patience of our readers farther with the death of Nanse Banks, the old parish schoolmistress.

'She had been long in a weak and frail state, but, being a methodical creature, still kept on the school, laying the foundation for many a worthy wife and mother. However, about the decline of the year her complaints increased, and she sent for me to consult about her giving up the school; and I went to see her on a Saturday afternoon, when the bit lassies, her scholars, had put the house in order, and gone home till the Monday.

'She was sitting in the window-nook, reading *THE WORD* to herself, when I entered, but she closed the book, and put her spectacles in for a mark when she saw me: and, as it was expected I would come, her easy chair, with a clean cover, had been set out for me by the scholars, by which I discerned that there was something more than common to happen, and so it appeared when I had taken my seat. "Sir," said she, "I hae sent for you on a thing troubles me sairly. I have warsled with poortith in this shed, which it has pleased the Lord to allow me to possess, but my strength is worn out, and I fear I maun yield in the strife;" and she wiped her eye with her apron. I told her, however, to be of good cheer; and then she said, "that she could no longer thole the din of the school, and that she was weary, and ready to lay herself down to die whenever the Lord was pleased to permit. But," continued she, "what can I do without the school? and, alas! I can neither work nor want; and I am wae to go on the Session, for I am come of a decent family." I comforted her, and told her, that I thought she had done so much good in the parish, that the Session was deep in her debt, and that what they might give her was but a just payment for her service. "I would rather, however, sir," said she, "try first what some of my auld scholars will do, and it was for that I wanted to speak with you. If some of them would but just, from time to time, look in upon me, that I may not die alane; and the little pick and drap that I require would not be hard upon them—I am more sure that in this way their gratitude would be no discredit, than I am of having any claim on the Session."

*As I had always a great respect for an honest pride, I assured her that I would do what she wanted; and accordingly, the very morning after, being Sabbath, I preached a sermon on the happiness

ness of them that have no help of man, meaning aged single women, living in garret-rooms, whose forlorn state, in the gloaming of life, I made manifest to the hearts and understandings of the congregation, in such a manner that many shed tears, and went away sorrowful.

‘ Having thus roused the feelings of my people, I went round the houses on the Monday morning, and mentioned what I had to say more particularly about poor old Nanse Banks the schoolmistress, and truly I was rejoiced at the condition of the hearts of my people. There was a universal sympathy among them; and it was soon ordered that, what with one and another, her decay should be provided for. But it was not ordained that she should be long heavy on their good will. On the Monday the school was given up, and there was nothing but wailing among the bit lassies, the scholars, for getting the vacance, as the poor things said, because the mistress was going to lie down to dee. And, indeed, so it came to pass, for she took to her bed the same afternoon, and, in the course of the week, dwindled away, and slippet out of this howling wilderness into the kingdom of heaven, on the Sabbath following, as quietly as a blessed saint could do. And here I should mention, that the Lady Macadam, when I told her of Nanse Banks’s case, inquired if she was a snuffer, and, being answered by me that she was, her ladyship sent her, a pretty French enamel box full of Macabaw, a fine snuff that she had in a bottle; and, among the Macabaw, was found a guinea, at the bottom of the box, after Nanse Banks had departed this life, which was a kind thing of Lady Macadam to do.’ pp. 87–91.

The next of this author’s publications, we believe, was ‘ The Ayrshire Legatees,’ also in one volume, and a work of great, and similar, though inferior merit, to the former. It is the story of the proceedings of a worthy Scottish clergyman and his family, to whom a large property had been bequeathed by a relation in India, in the course of their visit to London to recover this property. The patriarch himself and his wife, and his son and daughter, who form the party, all write copious accounts of what they see to their friends in Ayrshire—and being all lowly and simply bred, and quite new to the scenes in which they are now introduced, make up among them a very entertaining miscellany of original, naïve and preposterous observations. The idea of thus making a family club, as it were, for a varied and often contradictory account of the same objects—each tinging his picture with his peculiarities, and unconsciously drawing his own character in the course of the description, was first exemplified, we believe, in the Humphrey Clinker of Smollett, and has been since copied with success in the Bath Guide, Paul’s Letters to his Kinsfolk, the Fudge Family, and other ingenious pieces, both in prose and verse. Though the conception of the Ayrshire Legatees, however, is not new, the

execution and details must be allowed to be original; and, along with a good deal of *treadle*, and too much vulgarity, certainly display very considerable powers both of humour, invention, and acute observation.

The author's next work is 'The Provost,' which is decidedly better than the Legatees, and on a level nearly with the Annals of the Parish. There is no inconsiderable resemblance, indeed, it appears to us, in the character of the two Biographers; for if we substitute the love of jobbing and little management, which is inseparable from the situation of a magistrate in one of our little Burghs, for the zeal for Presbyterian discipline which used to attach to our orthodox clergy, and make a proper allowance for the opposite effects of their respective occupations, we shall find a good deal of their remaining peculiarities common to both those authors—the same kindness of nature with the same tranquillity of temper—and the same practical sagacity with a similar deficiency of large views or ingenious speculations. The Provost, to be sure, is a more wordly person than the Pastor, and makes no scruple about using indirect methods to obtain his ends, from which the simplicity of the other would have recoiled;—but his ends are not, on the whole, unjust or dishonest; and his good nature, and acute simplicity, with the Burghal authority of his tone, would almost incline us to conclude, that he was somehow related to the celebrated Baillie Nicol Jarvie of the Saltmarket. The style of his narrative is exceedingly meritorious; for while it is pitched on the self same key of picturesque homeliness and deliberate method with that of the parish Annalist, it is curiously distinguished from it by a sensible inferiority in literature, and an agreeable intermixture of *malaprops*, and other figures of rhetoric befitting the composition of a loyal chief magistrate. By far the most remarkable and edifying thing, however, in this volume, is the discovery, which the worthy Provost is represented as having gradually made, of the necessity of consulting public opinion in his later transactions, and the impossibility of managing public affairs, in the present times, with the same barefaced assertion, and brave abuse of authority, which had been submitted to by a less instructed generation. As we cannot but suspect, that this great truth is not yet sufficiently familiar with all in authority among us, and as there is something extremely engaging in the Provost's confession of his slow and reluctant conversion, and in the honest simplicity with which he avows his adherence to the principles of the old school of corruption, though convinced that the manner of advancing them must now be changed, we are tempted to ex-

tract a part of his lucubrations on this interesting subject. After noticing the death of old Bailie M'Lucre, he takes occasion to observe—

'And now that he is dead and gone, and also all those whom I found conjunct with him, when I came into power and office, I may venture to say, that things in yon former times were not guided so thoroughly by the hand of a disinterested integrity as in these latter years. On the contrary, it seemed to be the use and wont of men in public trusts, to think they were free to indemnify themselves, in a left handed way, for the time and trouble they bestowed in the same. But the thing was not so far wrong in principle, as in the huggermuggering way in which it was done, and which gave to it a guilty colour, that, by the judicious stratagem of a right system, it would never have had. In sooth, to say, through the whole course of my public life, I met with no greater difficulties and trials, than in cleansing myself from the old habitudes of office. For I must, in verity, confess, that I myself partook, in a degree, at my beginning, of the caterpillar nature, &c.—While, therefore, I think it has been of a great advantage to the public to have survived that method of administration in which the like of Bailie M'Lucre was engendered, I would not have it understood that I think the men who held the public trusts in those days a whit less honest than the men of my own time. The spirit of their own age was upon them, as that of ours is upon us; and their ways of working the wherry entered more or less into all their trafficking, whether for the commonality, or for their own particular behoof and advantage.

'I have been thus large and frank in my reflections anent the death of the Bailie, because, poor man, he had outlived the times for which he was qualified; and instead of the merriment and jocularity that his wily by-hand ways used to cause among his neighbours, the rising generation began to pick and dab at him, in such a manner, that, had he been much longer spared, it is to be feared he would not have been allowed to enjoy his earnings both with ease and honour.'—*The Provost*, pp. 171–74.

Accordingly, afterwards, when a corps of volunteers was raised in his Burgh, he observes—

'I kept myself aloof from all handling in the pecuniaries of the business; but I lent a friendly countenance to every feasible project that was likely to strengthen the confidence of the King in the loyalty and bravery of his people. For by this time I had learnt, that there was a wakerife. Common sense abroad among the opinions of men; and that the secret of the new way of ruling the world was to follow, not to control, the evident dictates of the popular voice; and I soon had reason to felicitate myself on this prudent and reasonable discovery; for it won me great reverence among the forward young men, who started up at the call of their country.—The which, as I tell frankly, was an admonition to me, that the peremptory will of

authority was no longer sufficient for the rule of mankind ; and, therefore, I squared my after conduct more by a deference to public opinion, than by any laid down maxims and principles of my own. The consequence of which was, that my influence still continued to grow and gather strength in the community, and I was enabled to accomplish many things that my predecessors would have thought it was almost beyond the compass of man to undertake.'—*The Provost*, pp. 208–17.

Upon occasion of his third and last promotion to the Provostry, he thus records his own final conversion.

'When I returned home to my own house, I retired into my private chamber for a time, to consult with myself in what manner my deportment should be regulated ; for I was conscious that heretofore I had been overly governed with a disposition to do things my own way, and although not in an avaricious temper, yet something, I must confess, with a sort of sinister respect for my own interests. It may be, that standing now clear and free of the world, I had less incitement to be so grippy, and so was thought of me, I very well know ; but in sobriety and truth I conscientiously affirm, and herein record, that I had lived to partake of the purer spirit which the great mutations of the age had conjured into public affairs ; and I saw that there was a necessity to carry into all dealings with the concerns of the community, the same probity which helps a man to prosperity, in the sequestered traffic of private life.'—*Ibid.* pp. 315, 316.

Trusting that these lessons from a person of such prudence, experience and loyalty, will not be lost on his successors, we shall now indulge ourselves by quoting a few specimens of what will generally be regarded as his more interesting style ; and, with our usual predilection for the tragic vein, shall begin with the following very touching account of the execution of a fair young woman for the murder of her new-born infant.

'The heinousness of the crime can by no possibility be lessened ; but the beauty of the mother, her tender years, and her light-headedness, had won many favourers, and there was a great leaning in the hearts of all the town to compassionate her, especially when they thought of the ill example that had been set to her in the walk and conversation of her mother. It was not, however, within the power of the magistrates to overlook the accusation ; so we were obligated to cause a precognition to be taken, and the search left no doubt of the wilfulness of the murder. Jeanie was in consequence removed to the Tolbooth, where she lay till the Lords were coming to Ayr, when she was sent thither to stand her trial before them ; but, from the hour she did the deed, she never spoke.

'Her trial was a short procedure, and she was cast to be hanged—and not only to be hanged, but ordered to be executed in our town, and her body given to the doctors to make an Atomy. The execution of Jeanie was what all expected would happen ; but when

the news reached the town of the other parts of the sentence, the wail was as the sough of a pestilence, and fain would the council have got it dispensed with. But the Lord Advocate was just wud at the crime, both because there had been no previous concealment, so as to have been an extenuation for the shame of the birth, and because Jeanie would neither divulge the name of the father, nor make answer to all the interrogatories that were put to her, standing at the bar like a dumble, and looking round her, and at the judges, like a demented creature, and beautiful as a Flanders' baby. It was thought by many, that her advocate might have made great use of her visible consternation, and pled that she was by herself; for in truth she had every appearance of being so. He was, however, a dure man, no doubt well enough versed in the particulars and punctualities of the law for an ordinary plea, but no of the right sort of knowledge and talent to take up the case of a forlorn lassie, misled by ill example and a winsome nature, and clothed in the allurements of loveliness, as the judge himself said to the jury.

' On the night before the day of execution, she was brought over in a chaise from Ayr between two town-officers, and placed again in our hands, and still she never spoke. Nothing could exceed the compassion that every one had for poor Jeanie; so she was na committed to a common cell, but laid in the council room, where the ladies of the town made up a comfortable bed for her, and some of them sat up all night and prayed for her; but her thoughts were gone, and she sat silent. In the morning, by break of day, her wanton mother that had been trolloping in Glasgow came to the Tolbooth door, and made a dreadful wally waeing; and the ladies were obligated, for the sake of peace, to bid her be let in. But Jeanie noticed her not, still sitting with her eyes cast down, waiting the coming on of the hour of her doom.

' There had not been an execution in the town in the memory of the oldest person then living; the last that suffered was one of the martyrs in the time of the persecution, so that we were not skilled in the business, and had besides no hangman, but were necessitated to borrow the Ayr one. Indeed, I being the youngest bailie, was in terror that the obligation might have fallen on me. A scaffold was erected at the Tron just under the Tolbooth windows, by Thomas Gimblet, the Master-of-work, who had a good penny of profit by the job, for he contracted with the town council, and had the boards after the business was done to the bargain; but Thomas was then deacon of the wrights, and himself a member of our body.

' At the hour appointed, Jeanie, dressed in white, was led out by the town-officers, and in the midst of the magistrates from among the ladies, with her hands tied behind her with a black ribbon. At the first sight of her at the Tolbooth stairhead, a universal sob rose from all the multitude, and the sternest ee could na refrain from shedding a tear. We marched slowly down the stair, and on to the

foot of the scaffold, where her younger brother, Willy, that was stable-boy at my lord's, was standing by himself, in an open ring made round him in the crowd; every one compassionating the dejected laddie, for he was a fine youth, and of an orderly spirit. As his sister came towards the foot of the ladder, he ran towards her, and embraced her with a wail of sorrow that melted every heart, and made us all stop in the middle of our solemnity. Jeanie looked at him (for her hands were tied), and a silent tear was seen to drop from her cheek. But in the course of little more than a minute, all was quiet, and we proceeded to ascend the scaffold. Willy, who had by this time dried his eyes, went up with us, and when Mr Pittle had said the prayer, and sung the psalm, in which the whole multitude joined, as it were with the contrition of sorrow, the hangman stepped forward to put on the fatal cap, but Willy took it out of his hand, and placed it on his sister himself, and then kneeling down, with his back towards her, closing his eyes and shutting his ears with his hands, he saw not, nor heard when she was launched into eternity!

'When the awful act was over, and the stir was for the magistrates to return, and the body to be cut down, poor Willy rose, and, without looking round, went down the steps of the scaffold; the multitude made a lane for him to pass, and he went on through them hiding his face, and gaed straight out of the town.' *Provost*, 67-73.

This is longer than we had expected—and therefore, omitting all the stories of his wiles and jocosities, we shall take our leave of the *Provost*, with his very pathetic and picturesque description of the catastrophe of the Windy Yule, which we think would not discredit the pen of the great novelist himself.

'In the morning, the weather was blasty and sleety, waxing more and more tempestuous, till about mid-day, when the wind checked suddenly round from the nor-east to the sou-west, and blew a gale, as if the prince of the powers of the air was doing his utmost to work mischief. The rain blattered, the windows clattered, the shop shutters flapped, pigs from the lum-heads came rattling down like thunder-claps, and the skies were dismal both with cloud and carry. Yet, for all that, there was in the streets a stir and a busy visitation between neighbours, and every one went to their high windows, to look at the five poor barks, that were warsling against the strong arm of the elements of the storm and the ocean.

'Still the lift gloomed, and the wind roared, and it was as doleful a sight as ever was seen in any town afflicted with calamity, to see the sailors' wives, with their red cloaks about their heads, followed by their hirpling and disconsolate bairns, going one after another to the kirkyard, to look at the vessels where their helpless breadwinners were battling with the tempest. My heart was really sorrowful, and full of a sore anxiety to think of what might happen to the town, whereof so many were in peril, and to whom no human magistracy

could extend the arm of protection. Seeing no abatement of the wrath of heaven, that howled and roared around us, I put on my big coat, and taking my staff in my hand, having tied down my hat with a silk handkerchief, towards gloaming I walked likewise to the kirk-yard, where I beheld such an assemblage of sorrow, as few men in situation have ever been put to the trial to witness.

‘ In the lea of the kirk many hundreds of the town were gathered together ; but there was no discourse among them. The major part were sailors’ wives and weans, and at every new thud of the blast, a sob rose, and the mothers drew their bairns closer in about them, as if they saw the visible hand of a foe raised to smite them. Apart from the multitude, I observed three or four young lasses, standing behind the Whinnyhill families’ tomb, and I jealoused that they had joes in the ships, for they often looked to the bay, with long necks and sad faces, from behind the monument. But of all the piteous objects there, on that doleful evening, none troubled my thoughts more than three motherless children, that beionged to the mate of one of the vessels in the jeopardy. He was an Englishman that had been settled some years in the town, where his family had neither kith nor kin ; and his wife having died about a month before, the bairns, of whom the eldest was but nine or so, were friendles enough, though both my gudewife, and other well-disposed ladies, paid them all manner of attention, till their father would come home. The three poor little things, knowing that he was in one of the ships, had been often out and anxious, and they were then sitting under the lea of a headstone, near their mother’s grave, chittering and creeping closer and closer at every squall. Never was such an orphan-like sight seen.

‘ When it began to be so dark, that the vessels could no longer be discerned from the churchyard, many went down to the shore, and I took the three babies home with me, and Mrs Pawkie made tea for them, and they soon began to play with our own younger children, in blythe forgetfulness of the storm ; every now and then, however, the eldest of them, when the shutters rattled, and the lum-head roared, would pause in his innocent daffing, and cower in towards Mrs Pawkie, as if he was daunted and dismayed by something he knew not what.

‘ Many a one that night walked the sounding shore in sorrow, and fires were lighted along it to a great extent, but the darkness and the noise of the raging deep, and the howling wind, never intermitted till about midnight ; at which time a message was brought to me, that it might be needful to send a guard of soldiers to the beach, for that broken masts and tackle, had come in, and that surely some of the barks had perished. I lost no time in obeying this suggestion, which was made to me by one of the owners of the Louping Meg ; and to show that I sincerely sympathised with all those in affliction, I rose and dressed myself, and went down to the shore, where I directed several old boats to be drawn up by the fires, and blankets to be

brought, and cordials prepared, for them that might be spared with life to reach the land; and I walked the beach with the mourners till the morning.

‘As the day dawned, the wind began to abate in its violence, and to wear away from the sou-west into the norit; but it was soon discovered, that some of the vessels with the corn had perished; for the first thing seen, was a long fringe of tangle and grain, along the line of the highwater mark, and every one strained with greedy and grieved eyes, as the daylight brightened, to discover which had suffered. But I can proceed no farther with the dismal recital of that doleful morning. Let it suffice here to be known, that, through the haze, we at last saw three of the vessels lying on their beam-ends, with their masts broken, and the waves riding like the furious horses of destruction over them. What had become of the other two, was never known; but it was supposed that they had foundered at their anchors, and that all on board perished.

‘The day being now Sabbath, and the whole town idle, every body in a manner was down on the beach, to help and mourn as the bodies, one after another, were cast out by the waves. Alas! few were the better of my provident preparation, and it was a thing not to be described, to see, for more than a mile along the coast, the new-made widows and fatherless bairns, mourning and weeping over the corpses of those they loved. Seventeen bodies were, before ten o’clock, carried to the desolated dwellings of their families; and when old Thomas Pull, the betherel, went to ring the bell for public worship, such was the universal sorrow of the town, that Nanse Donsie, an idiot natural, ran up the street to stop him, crying, in the voice of a pardonable desperation, “Wha, in sic a time, can praise the Lord?”—*Provost*, 177–184.

The next work on our list is the history of ‘Sir Andrew Wylie,’ in three volumes—and this, we must say, is not nearly so good as any of the former. It contains, however, many passages of great interest and originality, and displays, throughout, a power which we think ought naturally to have produced something better; but the story is clumsily and heavily managed, and the personages of polite life very unsuccessfully brought in. The author’s great error, we suspect, was in resolving to have three volumes instead of one—and his writing, which was full of spirit, while he was labouring to confine his ideas within the space assigned to them, seems to have become flat and languid, the moment his task was to find matter to fill that space.

His next publication, however, though only in one volume, is undoubtedly the worst of the whole—we allude to the thing called the ‘The Steam-Boat,’ which has really no merit at all; and should never have been transplanted from the Magazine in which we are informed it first made its appearance. With the

exception of some trash about the Coronation, which nobody of course could ever look at three months after the thing itself was over, it consists of a series of vulgar stories, with little either of probability or originality to recommend them. The attempt at a parallel or paraphrase on the story of Jeanie Deans, is, without any exception, the boldest and the most unsuccessful speculation we have ever seen in literary adventure.

The piece that follows, though in three volumes, is of a far higher order—and though in many points unnatural, and on the whole rather tedious, is a work undoubtedly of no ordinary merit. We mean ‘The Entail.’ It contains many strong pictures, much sarcastic observation, and a great deal of native and effective humour, though too often debased by a tone of vulgarity. The ultimate conversion of the Entailer himself into a sublime and sentimental personage, is a little too romantic—the history of poor Watty, the innocent imbecile—and his Betty Bottle, is perhaps the best full-length narrative—and the drowning of honest Mr Walkinshaw the most powerful single sketch in the work. We can afford to make no extracts.

‘Ringan Gilhaize,’ also in three volumes, is the last, in so far as we know, of this ready writer’s publications; and is a bold attempt to emulate the fame of the historical novels of his original, and to combine a striking sketch of great public occurrences, with the details of individual adventure. By the assistance of his grandfather’s recollections, which fill nearly half the book, the hero contrives to embrace the period both of the Reformation from Popery, in the reign of Queen Mary, and of the sufferings of the Covenanters from that of King Charles till the Revolution. But with all the benefit of this wide range, and the interest of those great events, we cannot say that he has succeeded in making a good book; or shown any spark of that spirit which glows in the pages of *Waverley* and *Old Mortality*. The work, however, is written with labour and care: and, besides a full narrative of all the remarkable passages of our ecclesiastical story, from the burning of Mr Wishart at St Andrew’s, to the death of Dundee at Killcrankie, contains some animated and poetical descriptions of natural scenery, and a few sweet pictures of humble virtue and piety. Upon the whole, however, it is heavy work—and proves conclusively, that the genius of the author lies much more to the quieter walks of humorous simplicity, intermixed with humble pathos, than to the lofty paths of enthusiasm or heroic emotion. In the first part we meet with nothing new or remarkable, but the picture of the Archbishop of St Andrew’s luxurious dalliance with his paramour, and of the bitter penitence and tragical death of that fair victim of his seductions, both which are sketch-

ed with considerable power and effect. In the latter part, there is some good and minute description of the perils and sufferings which beset the poor fugitive Covenanters in the days of their long and inhuman persecution. The cruel desolation of Gilhaize's own household is also given with great force and pathos; as well as the description of that irresistible impulse of zeal and vengeance that drives the sad survivor to rush alone to the field of Killicrankie, and to repay at last, on the head of the slaughtered victor of that fight, the accumulated wrongs and oppressions of his race. But still the book is tiresome, and without effect. The narrative is neither pleasing nor probable, and the calamities are too numerous, and too much alike; and the uniformity of the tone of actual suffering and dim religious hope, weighs like a load on the spirit of the reader. There is no interesting complication of events or adventure, and no animating development or catastrophe. In short, the author has evidently gone beyond his means in entering the lists with the master of *historical* romance; and must be contented, hereafter, to follow his footsteps in the more approachable parts of his career.

Of the other set of publications before us, 'Valerius' is the first in point of date; and the most original in conception and design. It is a Roman story, the scene of which is laid in the first age of Christianity; and its object seems to be, partly to present us with a living picture of the manners and characters of those ancient times, and partly to trace the effects of the true faith on the feelings and affections of those who first embraced it, in the dangers and darkness of expiring Paganism. It is a work to be excepted certainly from our general remark, that the productions before us were imitations of the celebrated novels to which we have so often made reference, and their authors disciples of that great school. Such as it is, Valerius is undoubtedly original; or at least owes nothing to that new source of inspiration. It would be more plausible to say, that the author had borrowed something from the travels of Anacharsis, or the ancient romance of Heliodorus and Chariclea—or the later effusions of M. Chateaubriand. In the main, however, it is original; and is written with very considerable power and boldness. But we cannot, on the whole, say that it has been successful; and even greater powers could not have ensured success for such an undertaking. We must know the daily life and ordinary habits of the people in whose domestic adventures we take an interest:—and we know nothing of the life and habits of the ancient Romans and primitive Christians. We may patch together a *cento* out of old books, and pretend

that it exhibits a view of their manners and conversation ; but the truth is, that all that is authentic in such a compilation can amount only to a few fragments of such a picture ; and that any thing like a complete and living portrait must be made up by conjecture, and inferences drawn at hazard. Accordingly, the work before us consists alternately of enlarged transcripts of particular acts and usages, of which accounts have been accidentally transmitted to us, and details of dialogue and observation in which there is nothing antique or Roman but the names,—and in reference to which, the assumed time and place of the action is felt as a mere embarrassment and absurdity. To avoid or disguise this awkwardness, the only resource seems to be, to take shelter in a vague generality of talk and description,—and to save the detection of the modern in his masquerade of antiquity, by abstaining from any thing that is truly characteristic either of the one age or the other, and consequently from any thing by which either character or manners can be effectually delineated or distinguished. The very style of the work before us affords a curious example of the necessity of this timid indefiniteness under such circumstances, and of its awkward effect. To exclude the tone of modern times, it is without idiom, without familiarity, without any of those natural marks by which alone either individuality of character, or the stamp and pressure of the time, can possibly be conveyed,—and runs on, even in the gay and satirical passages, in a rumbling, roundabout, rhetorical measure, like a translation from solemn Latin, or some academical exercitation. It is an attempt, in short, which, though creditable to the spirit and talents of the author, we think he has done wisely in not seeking to repeat,—and which, though it has not failed through any deficiency of his, has been prevented, we think, from succeeding by the very nature of the subject.

The next in order, we believe, is ‘ *Lights and Shadows of Scottish Life*, ’—an affected, or at least too poetical a title,—and, standing before a book, not very natural, but bright with the lights of poetry. It is a collection of twenty-five stories or little pieces, half novels half idylls, characteristic of Scottish scenery and manners—mostly pathetic, and mostly too favourable to the country to which they relate. They are, on the whole, we think, very beautifully and sweetly written, and in a soft spirit of humanity and gentleness. But the style is too elaborate and uniform ;—there is occasionally a good deal of weakness and commonplace in the passages that are most emphatically expressed,—and the poetical heightenings are often introduced where they hurt both the truth and the simplicity of the

picture. Still, however, they are founded in a fine sense of the peculiarities of our national character and scenery, and a deep feeling of their excellence and beauty—and, though not executed according to the dictates of a severe or correct taste, nor calculated to make much impression on those who have studied men and books ‘with a learned spirit of observation,’ are yet well fitted to minister delight to less fastidious spirits,—and to revive, in many world-wearied hearts, those illusions which had only been succeeded by illusions less innocent and attractive, and those affections in which alone there is neither illusion nor disappointment.

As the author’s style of narration is rather copious, we cannot now afford to present our readers with any of his stories—but, as a specimen of his tone and manner of composition, we may venture on one or two of his introductory descriptions. The following, of a snowy morning, is not the least characteristic.

‘It was on a fierce and howling winter day that I was crossing the dreary moor of Auchindown, on my way to the Manse of that parish, a solitary pedestrian. The snow, which had been incessantly falling for a week past, was drifted into beautiful but dangerous wreaths, far and wide, over the melancholy expanse—and the scene kept visibly shifting before me, as the strong wind that blew from every point of the compass struck the dazzling masses, and heaved them up and down in endless transformation. There was something inspiring in the labour with which, in the buoyant strength of youth, I forced my way through the storm—and I could not but enjoy those gleamings of sunlight that ever and anon burst through some unexpected opening in the sky, and gave a character of cheerfulness, and even warmth, to the sides or summits of the stricken hills. Sometimes the wind stopt of a sudden, and then the air was as silent as the snow—not a murmur to be heard from spring or stream, now all frozen up over those high moorlands. As the momentary cessations of the sharp drift allowed my eyes to look onwards and around, I saw here and there up the little opening valleys, cottages just visible beneath the black stems of their snow-covered clumps of trees, or beside some small spot of green pasture kept open for the sheep. These intimations of life and happiness came delightfully to me in the midst of the desolation; and the barking of a dog, attending some Shepherd in his quest on the hill, put fresh vigour into my limbs, telling me that, lonely as I seemed to be, I was surrounded by cheerful though unseen company, and that I was not the only wanderer over the snows.

‘As I walked along, my mind was insensibly filled with a crowd of pleasant images of rural winter life, that helped me gladly onwards over many miles of moor. I thought of the severe but cheerful labours of the barn—the mending of farm-gear by the fireside—the

wheel turned by the foot of old age, less for gain than as a thrifty pastime—the skilful mother, making “auld claes look amaisht as weel’s the new”—the ballad unconsciously listened to by the family all busy at their own tasks round the singing maiden—the old traditional tale told by some wayfarer hospitably housed till the storm should blow by—the unexpected visit of neighbours on need or friendship—or the footstep of lover undeterred by snow-drifts that have buried up his flocks;—but above all, I thought of those hours of religious worship that have not yet escaped from the domestic life of the Peasantry of Scotland—of the sound of psalms that the depth of snow cannot deaden to the ear of Him to whom they are chanted—and of that sublime Sabbath-keeping which, on days too tempestuous for the kirk, changes the cottage of the Shepherd into the Temple of God.

‘With such glad and peaceful images in my heart, I travelled along that dreary moor, with the cutting wind in my face, and my feet sinking in the snow, or sliding on the hard blue ice beneath it—as cheerfully as I ever walked in the dewy warmth of a summer morning, through fields of fragrance and of flowers. And now I could discern, within half an hour’s walk before me, the spire of the church, close to which stood the Manse of my aged friend and benefactor. My heart burned within me as a sudden gleam of stormy sunlight tipt it with fire—and I felt, at that moment, an inexpressible sense of the sublimity of the character of that grey-headed Shepherd who had, for fifty years, abode in the wilderness, keeping together his own happy little flock.—*Lights and Shadows*, pp. 131–133.

The next, of a summer storm among the mountains, is equally national and appropriate.

‘An enormous thunder cloud had lain all day over Ben-Nevis, shrouding its summit in thick darkness, blackening its sides and base, wherever they were beheld from the surrounding country, with masses of deep shadow, and especially flinging down a weight of gloom upon that magnificent Glen that bears the same name with the Mountain, till now the afternoon was like twilight, and the voice of all the streams was distinct in the breathlessness of the vast solitary hollow. The inhabitants of all the straths, vales, glens, and dells, round and about the Monarch of Scottish mountains, had, during each successive hour, been expecting the roar of thunder and the deluge of rain; but the huge conglomeration of lowering clouds would not rend asunder, although it was certain that a calm blue sky could not be restored till all that dreadful assemblage had melted away into torrents, or been driven off by a strong wind from the sea. All the cattle on the hills, and on the hollows, stood still or lay down in their fear.—the wild deer sought in herds the shelter of the pine-covered cliffs—the raven hushed his hoarse croak in some grim cavern, and the eagle left the dreadful silence of the upper heavens. Now and then the shepherds looked from their huts, while the shadow of the thunder-clouds deepened the hues of their plaids and tartans; and at every creaking of the heavy branches of the pines,

or wide-armed oaks in the solitude of their inaccessible birth-place, the hearts of the lonely dwellers quaked, and they lifted up their eyes to see the first wide flash—the disparting of the masses of darkness—and paused to hear the long loud rattle of heaven's artillery shaking the foundation of the everlasting mountains. But all was yet silent.

‘The peal came at last, and it seemed as if an earthquake had smote the silence. Not a tree—not a blade of grass moved, but the blow stunned, as it were, the heart of the solid globe. Then was there a low, wild, whispering, wailing voice, as of many spirits all joining together from every point of heaven,—it died away—and then the rushing of rain was heard through the darkness; and, in a few minutes, down came all the mountain torrents in their power, and the sides of all the steeps were suddenly sheeted, far and wide, with waterfalls. The element of water was let loose to run its rejoicing race—and that of fire lent it illumination, whether sweeping in floods along the great open straths, or tumbling in cataracts from cliffs overhanging the eagle's eyrie.

‘Great rivers were suddenly flooded—and the little mountain rivulets, a few minutes before only silver threads, and in whose fairy basins the minnow played, were now scarcely fordable to shepherds' feet. It was time for the strongest to take shelter, and none now would have liked to issue from it; for while there was real danger to life and limb in the many raging torrents, and in the lightning's flash, the imagination and the soul themselves were touched with awe in the long resounding glens, and beneath the savage scowl of the angry sky.

‘It was not a time to be abroad; yet all by herself was hastening down Glen-Nevis, from a shealing far up the river, a little Girl, not more than twelve years of age—in truth, a very child. Grief and fear, not for herself, but for another, bore her along as upon wings, through the storm; she crossed rivulets from which, on any other occasion, she would have turned back trembling; and she did not even hear many of the crashes of thunder that smote the smoking hills. Sometimes at a fiercer flash of lightning she just lifted her hand to her dazzled eyes, and then, unappalled, hurried on through the hot and sulphureous air. Had she been a maiden of that tender age from village or city, her course would soon have been fatally stopt short; but she had been born among the hills, had first learned to walk among the heather, holding by its blooming branches, and many and many a solitary mile had she tripped, young as she was, over moss and moor, glen and mountain, even like the roe that had its lair in the coppice beside her own beloved Shealing.’ *Lights and Shadows*, 369–372.

We must add a part of the story of a fair child's sickness, in the family of one of our cheerful and pious cottagers.

‘The surgeon of the parish lived some miles distant, but they expected him now every moment, and many a wistful look was di-

rected by tearful eyes along the moor. The daughter, who was out at service, came anxiously home on this night, the only one that could be allowed her, for the poor must work in their grief, and servants must do their duty to those whose bread they eat, even when nature is sick,—sick at heart. Another of the daughters came in from the potatoe-field beyond the brae, with what was to be their frugal supper. The calm noiseless spirit of life was in and around the house, while death seemed dealing with one who, a few days ago, was like light upon the floor, and the sound of music, that always breathed up when most wanted.—“Do you think the child is dying?” said Gilbert with a calm voice to the surgeon, who, on his wearied horse, had just arrived from another sick-bed, over the misty range of hills, and had been looking stedfastly for some minutes on the little patient. The humane man knew the family well, in the midst of whom he was standing, and replied, “While there is life there is hope; but my pretty little Margaret is, I fear, in the last extremity.” There was no loud lamentation at these words—all had before known, though they would not confess it to themselves, what they now were told—and though the certainty that was in the words of the skilful man made their hearts beat for a little with sick-er throbbings, made their pale faces paler, and brought out from some eyes a greater gush of tears, yet death had been before in this house, and in this case he came, as he always does, in awe, but not in terror.

‘The child was now left with none but her mother by the bedside, for it was said to be best so; and Gilbert and his family sat down round the kitchen fire, for a while in silence. In about a quarter of an hour, they began to rise calmly, and to go each to his allotted work. One of the daughters went forth with the pail to milk the cow, and another began to set out the table in the middle of the floor for supper, covering it with a white cloth. Gilbert viewed the usual household arrangements with a solemn and untroubled eye; and there was almost the faint light of a grateful smile on his cheek, as he said to the worthy surgeon, “You will partake of our fare after your day’s travel and toil of humanity.” In a short silent half hour, the potatoes and oat-cakes, butter and milk, were on the board; and Gilbert, lifting up his toil-hardened, but manly hand, with a slow motion, at which the room was as hushed as if it had been empty, closed his eyes in reverence, and asked a blessing. There was a little stool, on which no one sat, by the old man’s side. It had been put there unwittingly, when the other seats were all placed in their usual order; but the golden head that was wont to rise at that part of the table was now wanting. There was silence—not a word was said—their meal was before them,—God had been thanked, and they began to eat.

‘Another hour of trial past, and the child was still swimming for its life. The very dogs knew there was grief in the house, and lay without stirring, as if hiding themselves, below the long table at the

window. One sister sat with an unfinished gown on her knees, that she had been sewing for the dear child, and still continued at the hopeless work, she scarcely knew why; and often, often putting up her hand to wipe away a tear. "What is that?" said the old man to his eldest daughter—"what is that you are laying on the shelf?" She could scarcely reply that it was a ribband and an ivory comb that she had brought for little Margaret, against the night of the dancing-school ball. And, at these words, the father could not restrain a long, deep, and bitter groan; at which the boy, nearest in age to his dying sister, looked up weeping in his face, and letting the tattered book of old ballads, which he had been poring on, but not reading, fall out of his hands, he rose from his seat, and, going into his father's bosom, kissed him, and asked God to bless him; for the holy heart of the boy was moved within him; and the old man, as he embraced him, felt that, in his innocence and simplicity, he was indeed a comforter. Scarcely could Gilbert reply to his first question about his child, when the surgeon came from the bed-room, and said, "Margaret seems lifted up by God's hand above death and the grave; I think she will recover. She has fallen asleep; and, when she wakes, I hope—I believe—that the danger will be past, and that your child will live." They were all prepared for death; but now they were found unprepared for life. One wept that had till then locked up all her tears within her heart; another gave a short palpitating shriek; and the tender-hearted Isobel, who had nursed the child when it was a baby, fainted away. The youngest brother gave way to gladsome smiles; and, calling out his dog Hector, who used to sport with him and his little sister on the moor, he told the tidings to the dumb irrational creature, whose eyes, it is certain, sparkled with a sort of joy."—*Lights and Shadows*, pp. 36-43.

There are many things better than this in the book—and there are many not so good. We had marked some passages for censure, and some for ridicule—but the soft-heartedness of the author has softened our hearts towards him—and we cannot, just at present, say any thing but good of him.

The next book is 'Adam Blair,' which, it seems, is by the author of *Valerius*, though it is much more in the manner of the *Lights and Shadows*. It is a story of great power and interest, though neither very pleasing, nor very moral, nor very intelligible. Mr Blair is an exemplary clergyman in Scotland, who, while yet in the prime of life, loses a beloved wife, and is for a time plunged in unspeakable affliction. In this state he is visited by Mrs Campbell, the intimate friend of his deceased wife, who had left her husband abroad—and soon after saves his little daughter, and indeed himself, from drowning. There are evident marks of love on the lady's part, and much affection on his—but both seem unconscious of the true state of their

hearts, till she is harshly ordered home to the Highland tower of her husband, and he is left alone in the home she had so long cheered with her smiles. With nothing but virtue and prudence, as the author assures us, in his heart—he unaccountably runs off from his child and his parish, and makes a clandestine visit to her Celtic retreat—arrives there in the night—is rapturously welcomed—drinks copiously of wine—gazes with her on the moonlight sea—is again pressed to the wine-cup—and finds himself the next morning—and is found by her servants, clasped in her embraces! His remorse and horror are now abundantly frantic—he flies from her into the desert—and drives her from him with the wildest execrations. His contrition, however, brings on frenzy and fever—he is carried back to her tower, and watched over by her for a while in his delirium. As he begins to recover, he hears melancholy music, and sees slow boats on the water beneath his window—and soon after learns that she had caught the fever from him, and died; and that it was the ceremony of her interment he had seen and heard on the water. He then journies slowly homeward, proclaims his lapse to the presbytery, solemnly resigns his office, and betakes himself to the humble task of a day-labourer in his own former parish. In this state of penitence and humiliation he passes ten lonely and blameless years—gradually winning back the respect and esteem of his neighbours, by the depth of his contrition and the zeal of his humble piety—till at last his brethren of the presbytery remove the sentence of deprivation, and, on the next vacancy, restore him to the pastoral charge of his afflicted and affectionate flock.

There is no great merit in the design of this story, and there are many things both absurd and revolting in its details: but there is no ordinary power in the execution; and there is a spirit and richness in the writing, of which no notion can be formed from our little abstract of its substance. It is but fair, therefore, to the author, to let him speak for himself in one specimen; and we take the account, with which the book opens, of the death of the pastor's wife, and his own consequent desolation. She had suffered dreadfully from the successive loss of three children, and her health gradually sunk under her affliction.

‘The long melancholy summer passed away, and the songs of the harvest reapers were heard in the surrounding fields; while all, from day to day, was becoming darker and darker within the Manse of Cross-Meikle. Worn to a shadow—pale as ashes—feeble as a child—the dying mother had, for many weeks, been unable to quit her chamber; and the long-hoping husband at last felt his spirit faint within him; for even he perceived that the hour of separation could

not much farther be deferred. He watched—he prayed by her bed-side—he strove even yet to smile and to speak of hope, but his lips trembled as he spake; and neither he nor his wife were deceived, for their thoughts were the same, and years of love had taught them too well all the secrets of each other's looks as well as hearts.

'Nobody witnessed their last parting; the room was darkened, and no one was within it but themselves and their child, who sat by the bed-side, weeping in silence she knew not wherefore—for of death she knew little, except the terrible name; and her father had as yet been, if not brave enough to shed no tears, at least strong enough to conceal them.—Silently and gently was the pure spirit released from its clay; but manly groans were, for the first time, heard above the sobs and wailings of the infant; and the listening household shrunk back from the door, for they knew that the blow had been stricken; and the voice of humble sympathy feared to make itself be heard in the sanctuary of such affliction. The village doctor arrived just at that moment; he listened for a few seconds, and being satisfied that all was over, he also turned away. His horse had been fastened to the hook by the Manse door; he drew out the bridle, and led the animal softly over the turf, but did not mount again until he had far passed the outskirts of the green.

'Perhaps an hour might have passed before Mr Blair opened the window of the room in which his wife had died. His footstep had been heard for some time hurriedly traversing and re-traversing the floor; but at last he stopped where the nearly fastened shutters of the window admitted but one broken line of light into the chamber. He threw every thing open with a bold hand, and the uplifting of the window produced a degree of noise, to the like of which the house had for some time been unaccustomed: he looked out, and saw the external world bright before him, with all the rich colourings of a September evening.—The hum of the village sent an occasional echo through the intervening hedge-rows; all was quiet and beautiful above and below; the earth seemed to be clothed all over with sights and sounds of serenity; and the sky, deepening into darker and darker blue overhead, showed the earliest of its stars intensely twinkling, as if ready to harbinger or welcome the coming moon.

'The widowed man gazed for some minutes in silence upon the glorious calm of nature, and then turned with a sudden start to the side of the room where the wife of his bosom had so lately breathed;—he saw the pale dead face; the black ringlets parted on the brow; the marble hand extended upon the sheet; the unclosed glassy eyes; and the little girl leaning towards her mother in a gaze of half-horrified bewilderment; he closed the stiffening eyelids over the soft but ghastly orbs; kissed the brow, the cheek, the lips, the bosom, and then rushed down the stairs, and away out, bare-headed, into the fields, before any one could stop him, or ask whither he was going.

' There is an old thick grove of pines almost immediately behind the house ; and after staring about him for a moment on the green, he leapt hastily over the little brook that skirts it, and plunged within the shade of the trees. The breeze was rustling the black boughs high over his head, and whistling along the bare ground beneath him. He rushed he knew not whither, on and on, between those naked brown trunks, till he was in the heart of the wood ; and there, at last, he tossed himself down on his back among the withered fern leaves and mouldering fir-cones. All the past things of life floated before him, distinct in their lineaments, yet twined together, the darkest and the gayest, into a sort of union, that made them all appear alike dark. The mother, that had nursed his years of infancy—the father, whose hairs he had long before laid in the grave—sisters, brothers, friends, all dead and buried—the angel forms of his own early-ravished offspring—all crowded round and round him, and then rushing away, seemed to bear from him, as a prize and a trophy, the pale image of his expiring wife. Again she returned, and she alone was present with him—not the pale expiring wife, but the young radiant woman—blushing, trembling, smiling, panting on his bosom, whispering to him all her hopes, and fears, and pride, and love, and tenderness, and meekness, like a bride ; and then again all would be black as night. He would start up and gaze around, and see nothing but the sepulchral gloom of the wood, and hear nothing but the cold blasts among the leaves. He lay insensible alike to all things, stretched out at all his length, with his eyes fixed in a stupid stedfastness upon one great massy branch that hung over him—his bloodless lips fastened together, as if they had been glued—his limbs like things entirely destitute of life and motion—every thing about him cold, stiff, and senseless. Minute after minute passed heavily away as in a dream—hour after hour rolled unheeded into the abyss—the stars twinkled through the pine-tops, and disappeared—the moon arose in her glory, rode through the clear autumn heaven, and vanished—and all alike unnoted by the prostrate widower.

' Adam Blair came forth from among the fir-trees in the grey light of the morning, walked leisurely and calmly several times round the garden-green, which lay immediately in front of his house, then lifted the latch for himself, and glided with light and hasty footsteps up stairs to the room, where, for some weeks past, he had been accustomed to occupy a solitary bed. The wakeful servants heard him shut his door behind him ; one of them having gone out anxiously, had traced him to his privacy, but none of them had ventured to think of disturbing it. Until he had come back, not one of them thought of going to bed. Now, however, they did so, and the house of sorrow was all over silent.' *Adam Blair*, pp. 4-12.

There is great merit too, though of a different kind, in the scenes with Strahan and Campbell, and those with the ministers

and elders. But the story is clumsily put together, and the diction, though strong and copious, is frequently turgid and incorrect.

'The Trials of Margaret Lindsay,' by the author of *Lights and Shadows*, is the last of these publications of which we shall now say any thing; and it is too pathetic and full of sorrow for us to say much of it. It is very beautiful and tender; but something cloying, perhaps, in the uniformity of its beauty, and exceedingly oppressive in the unremitting weight of the pity with which it presses on our souls. Nothing was ever imagined more lovely than the beauty, the innocence, and the sweetness of Margaret Lindsay, in the earlier part of her trials; and nothing, we believe, is more true, than the comfortable lesson which her tale is meant to inculcate,—that a gentle and affectionate nature is never inconsolable nor permanently unhappy, but easily proceeds from submission to new enjoyment. But the tale of her trials, the accumulation of suffering on the heads of the humblest and most innocent of God's creatures, is too painful to be voluntarily recalled; and we cannot now undertake to give our readers any account of her father's desertion of his helpless family—of their dismal banishment from the sweet retreat, in which they had been nurtured—their painful struggle with poverty and discomfort, in the darksome lanes of the city—the successive deaths of all this affectionate and harmless household, and her own ill-starred marriage to the husband of another wife. Yet we must enable them to form some notion of a work, which has drawn more tears from us than any we have had to peruse since the commencement of our career. This is the account of the migration of the ruined and resigned family from the scene of their early enjoyments.

'The twenty-fourth day of November came at last—a dim, dull, dreary, and obscure day, fit for parting everlastingly from a place or person tenderly beloved. There was no sun—no wind—no sound in the misty and unechoing air. A deadness lay over the wet earth, and there was no visible Heaven. Their goods and chattels were few; but many little delays occurred, some accidental, and more in the unwillingness of their hearts to take a final farewell. A neighbour had lent his cart for the fitting, and it was now standing loaded at the door, ready to move away. The fire, which had been kindled in the morning with a few borrowed peats, was now out—the shutters closed—the door was locked—and the key put into the hand of the person sent to receive it. And now there was nothing more to be said or done, and the impatient horse started briskly away from Braehead. The blind girl, and poor Marion, were sitting in the cart—Margaret and her mother were on foot. Esther had two or three small flower-pots in her lap, for in her blindness she

loved the sweet fragrance, and the felt forms and imagined beauty of flowers; and the innocent carried away her tame pigeon in her bosom. Just as Margaret lingered on the threshold, the Robin red-breast, that had been their boarder for several winters, hopped upon the stone-seat at the side of the door, and turned up its merry eyes to her face. "There," said she, "is your last crumb from us, sweet Roby, but there is a God who takes care o' us a'." The widow had by this time shut down the lid of her memory, and left all the hoard of her thoughts and feelings, joyful or despairing, buried in darkness. The assembled group of neighbours, mostly mothers with their children in their arms, had given the "God bless you, Alice, God bless you, Margaret, and the lave," and began to disperse; each turning to her own cares and anxieties, in which, before night, the Lyndsays would either be forgotten, or thought on with that unpainful sympathy which is all the poor can afford or expect, but which, as in this case, often yields the fairest fruits of charity and love.

A cold sleety rain accompanied the cart and the foot travellers all the way to the city. Short as the distance was, they met with several other fittings, some seemingly cheerful, and from good to better,—others with woe-begone faces, going like themselves down the path of poverty, on a journey from which they were to rest at night in a bare and hungry house. And now they drove through the suburbs, and into the city, passing unheeded among crowds of people, all on their own business of pleasure or profit, laughing, jibing, shouting, cursing,—the stir, and tumult, and torrent of congregated life. Margaret could hardly help feeling elated with the glitter of all the shining windows, and the hurry of the streets. Marion sat silent with her pigeon warm in her breast below her brown cloak, unknowing she of change of time or of place, and reconciled to sit patiently there, with the soft plumage touching her heart, if the cart had gone on, through the cold and sleet, to midnight.

The cart stopt at the foot of a lane too narrow to admit the wheels, and also too steep for a laden horse. Two or three of their new neighbours,—persons in the very humblest condition, coarsely and negligently dressed, but seemingly kind and decent people, came out from their houses at the stopping of the cart-wheels. The cart was soon unladen, and the furniture put into the empty room. A cheerful fire was blazing, and the animated and interested faces of the honest folks who crowded into it, on a slight acquaintance, unceremoniously and curiously, but without rudeness, gave a cheerful welcome to the new dwelling. In a quarter of an hour the beds were laid down,—the room decently arranged,—one and all of the neighbours said "Gude night,"—and the door was closed upon the Lyndsays in their new dwelling.

They blessed and eat their bread in peace. The Bible was then opened, and Margaret read a chapter. There was frequent and loud noise in the lane, of passing merriment or anger,—but this little con-

gregation worshipped God in a hymn, Esther's sweet voice leading the sacred melody, and they knelt together in prayer.'—*Trials of Margaret Lyndsay*, 66—70.

Her brother goes to sea, and returns, affectionate and happy, with a young companion, whom the opening beauty of Margaret Lindsay charms into his first dream of love, and whose gallant bearing and open heart, cast the first, and almost the last gleam of joy and enchantment over the gentle and chastened heart of the maiden. But this, like all her other dawnings of joy, led only to more bitter affliction. She had engaged to go with him and her brother to church, one fine summer Sunday, and—the author shall tell the rest of the story himself.

' Her heart was indeed glad within her, when she saw the young sailor at the spot. His brown sun-burnt face was all one smile of exulting joy—and his bold clear eyes burned through the black hair that clustered over his forehead. There was not a handsomer, finer-looking boy in the British navy. Although serving before the mast, as many a noble lad has done, he was the son of a poor gentleman; and as he came up to Margaret Lyndsay, in his snarest suit, with his white straw-hat, his clean shirt-neck tied with a black ribband, and a small yellow cane in his hand, a brighter boy and a fairer girl never met in affection in the calm sunshine of a Scottish Sabbath-day.

' " Why have not you brought Laurence with you ? " Harry made her put her arm within his, and then told her that it was not her brother's day on shore. Now all the calm air was filled with the sound of bells, and Leith Walk covered with well-dressed families. The nursery-gardens on each side were almost in their greatest beauty—so soft and delicate the verdure of the young imbedded trees, and so bright the glow of intermingled early flowers. " Let us go to Leith by a way I have discovered," said the joyful sailor—and he drew Margaret gently away from the public walk, into a retired path winding with many little white gates through these luxuriantly cultivated enclosures. The insects were dancing in the air—birds singing all about them—the sky was without a cloud—and a bright dazzling line of light was all that was now seen for the sea. The youthful pair loitered in their happiness—they never marked that the bells had ceased ringing; and when at last they hurried to reach the chapel, the door was closed, and they heard the service chanting. Margaret durst not knock at the door, or go in so long after worship was begun; and she secretly upbraided herself for her forgetfulness of a well-known and holy hour. She felt unlike herself walking on the street during the time of church, and beseeched Harry to go with her out of the sight of the windows, that all seemed watching her in her neglect of Divine worship. So they bent their steps towards the shore.

‘ Harry Needham had not perhaps had any preconceived intention to keep Margaret from church ; but he was very well pleased, that, instead of being with her in a pew there, in a crowd, he was now walking alone with her on the brink of his own element. The tide was coming fast in, hurrying on its beautiful little bright ridges of variegated foam, by short successive encroachments over the smooth hard level shore, and impatient, as it were, to reach the highest line of intermingled sea-weed, silvery sand, and deep-stained or glittering shells. The friends, or lovers—and their short dream was both friendship and love—retreated playfully from every little watery wall that fell in pieces at their feet, and Margaret turned up her sweet face in the sunlight to watch the slow dream-like motion of the sea-mews, who seemed sometimes to be yielding to the breath of the shifting air, and sometimes obeying only some wavering impulse of joy within their own white-plumaged breasts. Or she walked softly behind them, as they alighted on the sand, that she might come near enough to observe that beautifully wild expression that is in the eyes of all winged creatures whose home is on the sea.

‘ Alas ! home—church—every thing on earth was forgotten—for her soul was filled exclusively with its present joy. She had never before, in all her life, been down at the sea-shore—and she never again was within hearing of its bright, sunny, hollow-sounding and melancholy waves.

“ See,” said Harry, with a laugh, “ the kirks have scaled, as you say here in Scotland—the pier-head is like a wood of bonnets.—Let us go there, and I think I can shew them the bonniest face among them a’.” The fresh sea breeze had tinged Margaret’s pale face with crimson,—and her heart now sent up a sudden blush to deepen and brighten that beauty. They mingled with the cheerful, but calm and decent crowd, and stood together at the end of the pier, looking towards the ship. “ That is our frigate, Margaret, the Tribune ;—she sits like a bird on the water, and sails well, both in calm and storm.” The poor girl looked at the ship with her flags flying, till her eyes filled with tears. “ If we had a glass, like one my father once had, we might, perhaps, see Laurence.” And for the moment she used the word “ father ” without remembering what and where he was in his misery. “ There is one of our jigger-rigged boats coming right before the wind.—Why, Margaret, this is the last opportunity you may have of seeing your brother. We may sail to-morrow ; nay to night.”—A sudden wish to go on board the ship seized Margaret’s heart. Harry saw the struggle—and willing her down a flight of steps, in a moment lifted her into the boat, which, with the waves rushing in foam within an inch of the gunwale, went dancing out of harbour, and was soon half-way over to the anchored frigate.

‘ The novelty of her situation, and of all the scene around, at first prevented the poor girl from thinking deliberately of the great error she had committed, in thus employing her Sabbath hours in a

way so very different to what she had been accustomed ; but she soon could not help thinking what she was to say to her mother when she went home, and was obliged to confess that she had not been at church at all, and had paid a visit to her brother on board the ship. It was very sinful in her thus to disobey her own conscience and her mother's will, and the tears came into her eyes. The young sailor thought she was afraid, and only pressed her closer to him, with a few soothing words. At that moment, a sea-mew came winnowing its way towards the boat, and one of the sailors rising up with a musquet, took aim at it as it flew over their heads. Margaret suddenly started up, crying, "Do not kill the pretty bird," and stumbling, fell forward upon the man, who also lost his balance. A flaw of wind struck the mainsail—the helmsman was heedless—the sheet fast—and the boat instantly filling, went down in a moment head foremost, in twenty fathom water.

'The accident was seen both from the shore and the ship ; and a crowd of boats put off to their relief. But death was beforehand with them all ; and, when the frigate's boat came to the place, nothing was seen upon the waves. Two of the men, it was supposed, had gone to the bottom entangled with ropes or beneath the sail,—in a few moments the grey head of the old steersman was apparent, and he was lifted up with an oar—drowned. A woman's clothes were next descried ; and Margaret was taken up with something heavy weighing down the body. It was Harry Needham who had sunk in trying to save her ; and in one of his hands was grasped a tress of her hair that had given way in the desperate struggle. There seemed to be faint symptoms of life in both ; but they were utterly insensible. The crew, among which was Laurence Lyndsay, pulled swiftly back to the ship ; and the bodies were first of all laid down together side by side in the captain's cabin.'—*Trials of Margaret Lyndsay*. pp. 125–130.

We must conclude with something less desolating—and we can only find it in the account of the poor orphan's reception from an ancient miserly kinsman, to whom, after she had buried all her immediate family, she went like Ruth, in the simple strength of her innocence. After walking all day, she comes at night within sight of his rustic abode.

With a beating heart, she stopt for a little while at the mouth of the avenue, or lane, that seemed to lead up to the house. It was much overgrown with grass, and there were but few marks of wheels ; the hedges on each side were thick and green, but unclipped, and with frequent gaps ; something melancholy lay over all about ; and the place had the air of being uninhabited. But still it was beautiful ; for it was bathed in the dews of a rich midsummer gloaming, and the clover filled the air with fragrance that revived the heart of the solitary orphan, as she stood, for a few minutes, irresolute, and apprehensive of an unkind reception.

' At last she found heart, and the door of the house being open, Margaret walked in, and stood on the floor of the wide low-roofed kitchen. An old man was sitting, as if half asleep, in a high-backed arm-chair, by the side of the chimney. Before she had time or courage to speak, her shadow fell upon his eyes, and he looked towards her with strong visible surprise, and, as she thought, with slight displeasure. "Ye hae got off your road, I'm thinking, young woman; what seek you here?" Margaret asked respectfully if she might sit down. "Aye, aye, ye may sit down, but we keep nae refreshment here—this is no a public-house. There's ane a mile west in the Clachan." The old man kept looking upon her, and with a countenance somewhat relaxed from its inhospitable austerity. Her appearance did not work as a charm or a spell, for she was no enchantress in a fairy tale; but the tone of her voice, so sweet and gentle, the serenity of her face, and the meekness of her manner, as she took her seat upon a stool not far from the door, had an effect upon old Daniel Craig, and he bade her come forward, and take a chair "farther ben the house."

' "I am an Orphan, and have perhaps but little claim upon you, but I have ventured to come here—my name is Margaret Lyndsay, and my mother's name was Alice Craig." The old man moved upon his chair, as if a blow had struck him, and looked long and earnestly into her face. Her features confirmed her words. Her countenance possessed that strong power over him that goes down mysteriously through the generations of perishable man, connecting love with likeness, so that the child in its cradle may be smiling almost with the self same expression that belonged to some one of its forefathers mouldered into ashes many hundred years ago. "Nae doubt, nae doubt, ye are the daughter o' Walter Lyndsay and Alice Craig. Never were twa faces mair unlike than theirs, yet yours is like them baith. Margaret—that is your name—I give you my blessing. Hae you walked far? Mysie's doun at the Rashy-riggs wi' milk to the calf, but will be in belyve. Come, my bonny bairn, take a shake o' your uncle's hand."

' Margaret told, in a few words, the principal events of the last three years, as far as she could, and the old man, to whom they had been almost all unknown, heard her story with attention, but said little or nothing. Meanwhile, Mysie came in—an elderly, hard-featured woman, but with an expression of homely kindness, that made her dark face not unpleasant.

' Margaret felt herself an inmate of her uncle's house, and her heart began already to warm towards the old grey-headed solitary man. His manner exhibited, as she thought, a mixture of curiosity and kindness; but she did not disturb his taciturnity, and only returned immediate and satisfactory answers to his few short and abrupt questions. He evidently was thinking over the particulars which she had given him of her life at Braehead, and in the lane; and she did not allow herself to fear, but that, in a day or two, if he permitted

her to stay, she would be able to awaken in his heart a natural interest in her behalf. Hope was a guest that never left her bosom—and she rejoiced when, on the return of the old domestic from the bed-room, her uncle requested her to read aloud a chapter of the Bible. She did so,—and the old man took the book out of her hand with evident satisfaction, and, fastening the clasp, laid it by in the little cupboard in the wall near his chair, and wished her good night.

Mysie conducted her into the bed-room, where every thing was neat, and superior, indeed, to the ordinary accommodation of a farmhouse. “Ye need na fear, for feather-bed and sheets are a’ as dry as last year’s hay in the stack. I keep a’ things in the house weel aired, for damp’s a great disaster. But, for a’ that, sleepin’ breath has na been drawn in that bed these sixteen year!” Margaret thanked her for the trouble she had taken, and soon laid down her limbs in grateful rest. A thin calico curtain was before the low window; but the still serene radiance of a midsummer night glimmered on the floor. All was silent—and in a few minutes Margaret Lyndsay was asleep.

‘In the quiet of evening, the old man took her with him along the burn-side, and into a green ewe-bught, where they sat down for a while in silence. At last he said, “I have nae wife—nae children—nae friends, I may say, Margaret—nane that cares for me, but the servant in the house, an auld friendless body like mysel’; but if you choose to bide wi’ us, you are mair than welcome, for I know not what is in that face o’ thine; but this is the pleasantest day that has come to me these last thirty years.”

‘Margaret was now requested to tell her uncle more about her parents and herself, and she complied with a full heart. She went back, with all the power of nature’s eloquence, to the history of her young years at Braehead—recounted all her father’s miseries—her mother’s sorrows,—and her own trials. All the while she spoke, the tears were streaming from her eyes, and her sweet bosom heaved with a crowd of heavy sighs. The old man sat silent; but more than once he sobbed, and passed his withered toil-worn hands across his forehead.—They rose up together, as by mutual consent, and returned to the house. Before the light had too far died away, Daniel Craig asked Margaret to read a chapter in the Bible, as she had done the night before; and when she had concluded, he said, “I never heard the Scriptures so well read in all my days—did you, Mysie?” The quiet creature looked on Margaret with a smile of kindness and admiration, and said, that “she had never understood that chapter sae weel before, although, aiblins, she had read it a hundred times.”—“Ye can gang to your bed without Mysie to show you the way to-night, my good niece—we are one of the family now—and Nether-Place will after this be as cheerfu’ a house as in a’ the parish.”’—*Trials of Margaret Lyndsay*, pp. 251, 252.

We should now finish our task by saying something of 'Reginald Dalton;'—but such of our readers as have accompanied us through this long retrospect, will readily excuse us, we presume, for postponing our notice of that work till another opportunity. There are two decisive reasons, indeed, against our proceeding with it at present,—one, that we really have not yet read it fairly through—the other, that we have no longer room to say all of it that we foresee it will require.

ART. X. *Reliquiæ Diluvianæ; or, Observations on the Organic Remains contained in Caves, Fissures, and Diluvial Gravel, and on other Geological Phenomena, attesting the Action of an Universal Deluge.* By the Reverend WILLIAM BUCKLAND, B. D. F. R. S. F. L. S. Member of the Geological Society of London, &c. &c. and Professor of Mineralogy and Geology in the University of Oxford. 4to. pp. 303. 27 plates. London. J. Murray, 1823.

TO those who are acquainted with the history of Geology during the last century, a new book upon the Deluge will probably be an object of some alarm: But this is really a very interesting volume; and though we differ in some degree from the author, as to the extent of the inferences deducible from his observations, we cannot but admire the promptitude and activity of his researches,—the skill with which he seizes upon the most important views of the subject, and the spirit and facility with which he presents them to his readers. But before we enter upon an examination of the work itself, it is really necessary to say a word or two on the history of the department of inquiry to which it relates.

The Creation and the Deluge have long been the stumbling-blocks of geologists; and were at one time so fertile in visionary speculation and false reasoning, as either to render the very name of geology ridiculous, or produce a sort of dread of that delightful study, from the attacks upon Revelation to which it seemed to lead, and the injudicious defence too commonly opposed to them. At present, however, it seems to be universally admitted, that the object of Revelation was the religious and moral discipline, and not the literary or scientific instruction, of mankind; and that, since the Sacred Books have not communicated the principles either of Astronomy or Chemistry, there was no reason to expect from them those of other departments of knowledge, not more intimately connect-

ed with the welfare of the human race. Even where, as in the case of the deluge, the Scripture treats of great natural events, the principles of interpretation are so very far from being agreed upon,* that the greatest caution should be employed in founding arguments upon it; and, if the attempt to connect the details of Scripture narrative with the results of physical inquiry, were prudent upon other topics, it would still be premature and dangerous in geology, from the very imperfect state of that branch of Natural History itself.

There is a passage in the Preface to Burnet's Treatise on the Theory of the Earth, † which is excellent upon this subject; and it is the more deserving of attention, as that celebrated work was written expressly in support of Sacred history. The author is speaking of Saint Austin, 'who,' he says, 'showed his zeal against the *Antipodes* to very ill purpose, though he drew his reasons partly from Scripture'—and if (continues Burnet, writing in 1697) 'within a few years, or in the next generation, it should prove as certain and demonstrable that the *earth* is *moved*, as it is now that there are *Antipodes*; those that have been zealous against it, and engaged the Scripture in the controversy, would have the same reason to repent of their forwardness, that St Austin would have now if he was alive. It is a dangerous thing to engage the authority of Scripture in disputes about the natural world, in opposition to reason; lest Time, which brings all things to light, should discover that to be evidently false, which we had made Scripture to assert; and I remember St Austin, in his exposition upon *Genesis*, hath laid down a rule to this very purpose, though he had the unhappiness, it seems, not to follow it always himself.' ‡ The

* Thus, Mr Buckland himself maintains confidently, that various species of animals were utterly lost and extinguished by the Deluge—while the Mosaic account states distinctly, that they were all preserved;—and even Mr Granville Penn, while he insists on the most literal adherence to the Sacred narrative in every thing relating to geology, admits that considerable liberty may be used with it in other matters; and quotes, with approbation, Rosenmuller's sweeping recipe for reconciling the mention of mornings and evenings before the creation of the sun. '*Loquitur,*' says this reasonable theologian, '*secundum veritatem Opticam, non Physicam: nec mirum; cum Vulgus altiora non capiat; nam Historia capti vulgi est accommodata.*'

† 8vo. Vol. i. pp. xix. xx.

‡ It is singular, that the book to which these observations are prefixed, is itself only a splendid example of erroneous views in philosophy; the very title showing how much the author was mistaken

reason, also, which he gives for this caution, is admirable, and very finely expressed: '*For,*' saith he, † '*if the unbelievers or philosophers shall certainly know us to be mistaken, and to err in those things that concern the natural world, and see that we allege our (sacred) books for such vain opinions, how shall they believe those same books when they tell them of the resurrection of the dead and the world to come, if they find them to be fallaciously writ, in such things as lie within their certain knowledge?*'

We sincerely wish that Mr Buckland had considered the force of these excellent observations, before the publication of the present work; since, though we think very highly of his performance and of the talents which it displays, and will not yield to the author in a zealous desire to diffuse the blessings of revealed religion, we are by no means certain that he would not have done better, both as a divine and a geologist, if he had left altogether untouched the connexion of his subject with the Sacred narrative; and contented himself with the confirmation he has given to the fact, of the universal action of a deluge upon the earth's surface; leaving the propositions so established to find their place, and to produce their effect hereafter. It would be unjust however, not to add, that in the tone and language of the present volume, there is no trace of that polemic and offensive spirit, with which almost every thing else that we have read, where Scripture history is connected with physical inquiry, has been contaminated.

But whatever may be thought of the prudence of attempting to connect the discoveries of natural science with the sacred writings, it is evident, that if the testimony of science can ever be of any value in support of Scripture history, the physical researches, by which it is intended to confirm the historical statements, should be most strictly independent. No latent facility should incline us to accept weak evidence because of its tendency to the desired object;—but, for the sake of revelation as well as of science,—of truth in every form,—the physical part of the inquiry ought to be conducted as if the Scriptures were not in existence. Above all, the tone and language of such an inquiry should betray no desire to force conviction, by connecting with it extrinsic considerations; or by holding up to obloquy, those who dissent from our opinions, or reject

as to the province of physical inquiry.—'The Sacred Theory of the Earth, containing an Account of the Original of the Earth, and of all the general Changes which it hath already undergone, or is to undergo, till the consummation of all things.' 3d Edit. folio, 1697.

† Gen. ad. tit. lib. 1. c. 19.

our arguments. Imputations of this character connected thus with a subject of acknowledged difficulty, are not less impolitic than uncharitable; for it may be retorted, that more tangible agents sometimes have a share in religious controversy, and that the hope of advancement in wealth, station, or authority, may be no less powerful in one direction, than the pride of scepticism on the other. But the great objection to all attempts to cramp the exercise of reason and conscience upon questions of this nature, rests upon much higher grounds:—they render doubtful the goodness of the cause whose advocates stoop to such resources; * and violate those maxims of mildness and benignity, which are the characteristic of our religion, and assuredly not the lowest proofs of its Divine origin.

If what has been published on the Geology of the Deluge, be tried by the tests we have now proposed, scarcely any writer of the last century, and but few of a more recent date, can be found, who has not weakened the force of his arguments by dogmatism and intolerance,—or so combined with false or absurd theory and vague assertion, whatever he may have contributed to real knowledge, as to render it practically of little service.

We have already, in a former article, † alluded to the singular opinions entertained, about the beginning of the last century, upon the nature of Petrifications; which, no small number of philosophers contended, were not the remains of animated beings, but mere *lusus naturæ*, or perhaps the unfinished materials of generations not yet called into existence. But if these naturalists were sparing of life, Kepler and others had asserted, in return, that the entire globe possessed the principle of animation; ‡ and among these, *Robinson* § of Ouseby, is

* ‘ Let every thing ’ say Burnet, ‘ be tried and examined in the first place, whether it be *True* or *False*; and if it be found false, it is then to be considered, whether it be such a falsity as is prejudicial to religion, or no. But for every new theory that is proposed, to be alarmed, as if all religion was falling about our ears, is to make the world suspect that we are very ill assured of the foundation it stands upon.’—8vo. vol. i. Preface xx. xxi.

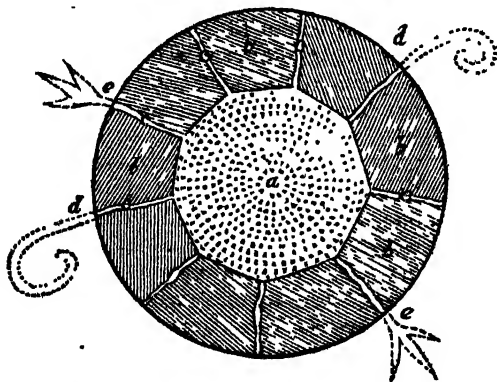
† Edin. Rev. vol. xxix. p. 314.

‡ Cuvier—Discours préliminaire.

§ We allude to a Tract of this author, entitled ‘ the Anatomy of the Earth,’ 4to, 1694, in which he tells us—‘ that matter at first consisted of innumerable particles, of diverse figures and different qualities, running a reel in dark confusion, till the world, by the infusion of a vital spirit, became a great animal, having

somewhat deserving of notice, since he has brought forward, in one of his publications, * some striking proofs of design in

' skin, flesh, blood,' &c. and he has given a chapter upon each of these divisions of his subject,—the eighth chapter, containing a description ' of the Belly of the earth ' and what it may be supposed to contain, with an inquiry into the causes of earthquakes, makes rather a curious approach to certain modern theories. After stating that riches and metals are not ' digged from the innermost *viscera terræ*, ' and that the works of miners are scratches rather in the skin of the earth, than ' wounds in her bowels ; ' the writer adds, that the state of things is such, ' as must unavoidably incline us to believe, that ' in the middle of the earth there is a vast cavity or hollow, of a ' regular multangular figure, as in the following scheme—'



' wherein we suppose the mighty space, *a*, to be filled up with a ' crude and undigested matter, endued with several different and ' contrary qualities, which are in a continual struggle and contention ' among themselves. Above these, we have the crust or fleshy part ' of the earth, made up of the several leaves or foldings of stone, ' minerals, &c. as at *b, b, b, b*; together with the dykes and rakes, ' (or sinews and other ligaments) at *c, c, c, c*. Now, when, in the ' intestine war below, the airy particles prevail, they break through ' the joints of the earth in hurricanes, as at *d, d*; and when (on ' the contrary) the fiery particles are predominant, they force their ' passage the same way, as at *e, e*, causing thereby flaming eruptions and earthquakes; sometimes with that violence as to break ' the very ribs of the earth, swallowing up houses and towns. And ' these convulsions are as natural to the earth as fevers, agues, and ' other distempers are to the bodies of other animals.'

* ' An Essay towards a Natural History of Cumberland and Westmoreland.'

the economy of nature. But, though he has ventured also to speculate upon the Mosaic account of the Creation and the Deluge, * his writings are quite sufficient to show the very humble qualifications of geologists in those days, in judgment and good taste.

The discussions that took place about this period, respecting the nature and origin of fossil remains, in which several of the most eminent naturalists, both in England and on the Continent, took a part, render it the more surprising, that Voltaire, who affects to treat the question of the deluge as a natural philosopher, † should not only have denied the connexion of fossil bodies with that event, but even expressed doubts as to their existence; and it is hardly unfair to suppose, that his opinions upon this subject was influenced by the evidence which petrifications were supposed to furnish, of what he had undertaken to disprove,—since, instead of investigating the facts himself, he tells us, that the fossil bones discovered in the interior of France, may have been stray specimens from the cabinets of collectors; and that the oyster shells, said to occur near Mont Cenis, are probably muscles (moules) from the adjoining lakes, —or even may have come from the hats of pilgrims, on their way from Spain to the Holy Land! Nor is he more fortunate in some of his other objections, since he reasons as to the physical difficulties involved by a general inundation, from the rate at which the waters of the Mediterranean are said to retire from the coast; and finds that two million two hundred and fifty thousand years would thus be required to enable the sea ‘to make the tour of the globe!’—while he assumes, as the basis of another argument, where the ground is really strong, that the mean depth of the ocean, which the calculations of La Place have since shown to be about four leagues, ‡ is only five hundred feet.

Hutchinson was another of the numerous writers of those days who combined geology with disquisitions on the Mosaic history; and it must be presumed that he possessed some ability, as he was the founder of a sort of school, and seems to have inspired his pupils with considerable enthusiasm. He made some good observa-

* *Observations on the Natural History of this World of Matter and World of Life; being a philosophical discourse grounded on the Mosaic system of the World, and of the Flood.* By Thomas Robinson, Rector of Ouseby, in Cumberland. —1699.

† *Dictionnaire Philosophique portatif*;—Articles, *Comètes, Deluge, Inondation, Miracles, &c.*

‡ *La Place*, quoted by Kirwan, *Mem. Acad. des Sciences, &c.* 1776, p. 213.

tions on the proofs of diluvial action, * and promoted the progress of geological inquiry, by directing the attention of his converts to the structure of the globe; but he held, among other extravagancies, that the fundamental principles of all natural philosophy are to be found in the Scriptures, maintaining his opinion upon this and almost every other subject with the most disgusting arrogance. The insolence with which he speaks of Newton, † whom he accuses of a design to subvert religion, is of itself sufficient to disable both his judgment and his candour; and is the more unpardonable, as it is plain he had never taken the trouble to understand the great discoveries which he has presumed to ridicule.

The language of *Linnaeus* respecting the Deluge, is that of a candid and inquiring man, who had not found what he had looked for; ‡ and when it is considered that the facts respecting fossil remains, detected by recent investigation, were at that period altogether unsuspected, his rejection of what was generally admitted in his own time, as evidence of a deluge, is a proof of sagacity and judgment; the phenomena in question being now universally regarded as of antediluvian production.

One of the best of the school of Hutchinson was Catcott, who, in his 'Treatise on the Deluge,' has brought forward very distinctly some proofs of the former agency upon the earth's surface, of diluvial currents; and has placed in a most convincing light, the formation of valleys by such currents, and not by the existing streams. But he ascribed to this same deluge the total dissolution of the earth, and the subsequent deposition of all the solid strata; an error which would have been excusable, if the arguments had been left simply to the judgment of his readers; but in reasoning upon this part of the subject, Catcott

* 'Treatise on Mining,' and 'Observations made in the year 1706.'—*Works*, vol. xii.

† The following is a specimen of his sarcastic style. 'Prodigious Fabricator! who wanted only an air-pump to make a vacuum, and a pendulum or swing to prove it; a loadstone, a bit of amber or jet, to form a philosophy, a spyglass, and a pair of compasses, to find out infinite worlds; a glass bubble, and a board with a hole in it, to describe all the wonders of light! who knows, but by following so famous an example, even women and children may hereafter commence sage philosophers, by blowing phlegm through a straw, or starting at soapy vehicles!'—*Abstract from the Works of John Hutchinson, Esq.* 12mo, 1755. pp. 149–156.

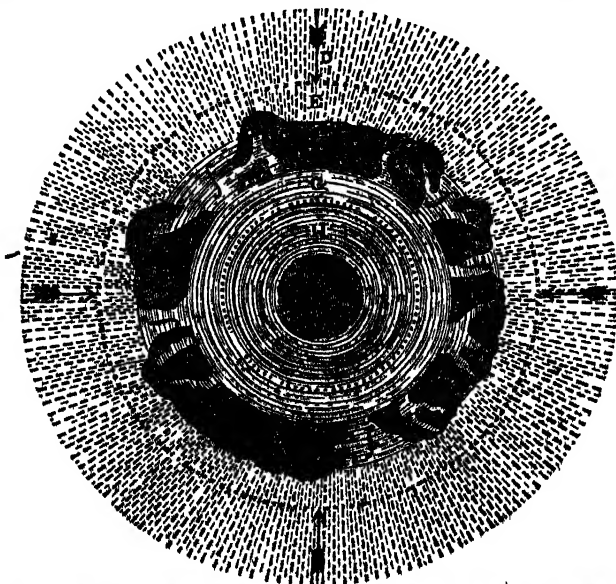
‡ 'Cataclysmi universalis certa rudera ego nondum attigi, quousque penetraui; minus etiam veram terram adamiticam; sed ubique vidi lictas ab Equore terras; et in his mera rudera longinquae similis praeterlapsae ævi.'—*Sys. Naturæ*:—regnum Lapidum. Sect. I.

goes so far as to entitle those who presume to doubt the truth of his opinion,—‘mortals of self-sufficiency and ignorance;’ and to accuse them of the want of ‘will to see;’* a charge which, on such a subject, was no doubt connected then, as it is now, with consequences much more serious than the mere displeasure of the author.

It is singular, also, that Catcott should have entered so completely into the visions of his preceptor, as to have copied from Hutchinson, and gravely mentioned in the title-page of his own book, ‘A plate,’—representing ‘the internal structure of the terraqueous globe, *from the centre to the circumference*,’ which in a ‘premonition,’ he advises his readers to make themselves well acquainted with, as rendering ‘plain and clear the account of the flood, as philosophically explained’ in one part of his dissertation. ‡

* On the Deluge. 8vo. 1761. p. 16.

‡ We insert this curious Plate, with its ‘Explanation,’ to show how far an author, in many respects ingenious, may be seduced by system.



‘D, is the outward expanse, or the open firmament of Heaven;
 ‘E, a circular space, filled with water during the height of the Deluge, but now with the air that came from the central hollow of the earth; and at present constitutes what we call our atmosphere.
 ‘F, the shell of the earth, broken into innumerable apertures

Kirwan, though a chemist and mineralogist of considerable merit, was, in geology, less an original observer than an importer of information,—in his time easily to be obtained in England—from the works of foreign geologists, especially those of Germany. He was so decidedly pledged to the aquatic theory of rocks, that his views were warped upon all that related to that question; and, unfortunately, like too many other theorists, he has not scrupled to hint, that those who differed from him were swayed by other than scientific considerations. In the Introduction to his *Geological Essays*, * Mr Kirwan

and fissures, of various shapes and sizes; the larger of which *f, f, f*, being filled with the water that descended from the surface of the earth, form seas and lakes; the lesser (which branch from the former, or pass immediately from the under part of the shell of the earth to the tops of the highest mountains) serve as canals, for the water which supplies springs and rivers to run in: the least of all (denoted by the irregular black strokes in the solid shell of the earth), represent the cracks through which vapours principally ascend.

'G H, the *great abyss* of water within the earth, with which all seas, lakes, rivers, &c. communicate, and from whence they receive their supplies, G and H are divided from each other by a dotted circle, because one of them represents the water that during the deluge covered the whole surface of the earth, but which was afterwards forced down, through the above mentioned larger apertures and fissures, to its original place, as the inward air was forced out through the lesser and oblique fissures; and the other of them represents that part of the abyss which, during the deluge, remained beneath the earth.

'I, a solid ball or nucleus of terrestrial matter, formed from what the water, in its descent from the surface, and passage through the strata of the earth, tore off and carried down with it into the abyss, and reposit at the lowest place, the centre of the earth.

'*Q* So that the opinion of the ancients concerning the earth's resembling an egg, has great propriety in it; for the central nucleus (I), by its innermost situation and shape, may well represent the yolk; the abyss of water (G H), which surrounds it, and is in a middle position, may stand for the *clear fluid of the white*. The *crust of the earth* (F), (allowing only for its breaks and cracks), by its roundness, hardness, uppermost situation, and little inequalities on its surface, is justly analogous to the shell. And on this account the term, the shell of the earth, is frequently used in this treatise."—*Catech on the Deluge*. 1761, p. 54.

* *Ivo*, p. 12. These 'Essays,' which originally appeared in the *Transactions of the Royal Irish Academy*, are unavoidably brought under notice, in considering the history of this subject, from their having been referred to with approbation by the learned and excellent Dr Graves. Lectures on the Pentateuch, &c. 2d edit, Introduction.

speaks of 'the evident agreement he has discovered' between the Mosaic account of the creation, and the most certain and striking geological observations. After some very just remarks upon the relation that may exist between historical testimony and the result of physical inquiry, he goes on to the investigation by which 'the series of facts' that he refers to, had been educed, and concludes his Essay 'On the Primeval State of the Globe,' with these remarkable passages. 'Here, then, we have seven or eight geological facts, related by Moses on the one part, and, on the other, deduced solely from the most exact and best verified geological observations, and yet agreeing perfectly with each other, not only in substance, but in the order of their succession. On whichever of these we bestow our confidence, its agreement with the other demonstrates the truth of that other; but if we bestow our confidence on neither, then their agreement must be accounted for. If we attempt this, we shall find the *improbability*, that both the accounts are false, infinite; consequently one must be true, and then so must also the other;—and afterwards,—'Let this improbability, as to the substance of the facts, be represented only by 10, then the improbability of their agreement as to seven events, is $\frac{1}{10^7}$, that is, as one to ten million, and would be much higher if the *order* also had entered into the computation.'—*Essays*, pp. 52, 53.

Now, of the facts here mentioned, as 'deduced solely from the most exact and best verified observations,' there is hardly one that is not either an inference of very doubtful correctness, from the observations of other writers, of various and unequal authority, or that does not involve some unsupported hypothesis; * and we are convinced, that every candid and well informed geologist of the present day will be of opinion, that a wilder and a more fanciful series of propositions, has hardly ever been brought together. If, then, as the author boasts, the connexion between his statements and the Mosaic history is such, that

* Such, for example, as, that the central parts of the earth contain immense empty cavities,—the sweeping denial of the agency of heat in the formation of rocks,—the account of the nature and properties of the original chaotic fluid,—the chemical qualities of which, the author speaks of almost as if a portion of it had been carefully analyzed and tested by him in his laboratory. These strides in theory of Mr Kirwan, and other zealous converts of the *Neptunian* system, bring to mind the movements of their protecting deity in Homer—

—Τὸς μὲν δὲκεν ἰὼν τὴν διττάτην, ἴστρον τινάμεν,
Αἰγυίῃ.—K. N. 20.

they must stand or fall together, the history cannot be true!—and the same may be said of the far greater number of what are termed statements of *fact* upon this subject; which are all regarded by their respective authors as identified with the Scripture history, though, in reality, not less at variance with each other, than they all are with the actual phenomena of the globe.

The account given by Mr Kirwan of the Deluge, is of the same character, and no less remote from demonstration. Thus he speaks of a current from *the south*, as if he had actually been a witness of its progress; and finally, mentions the basaltic masses on the Scotch and Irish coasts, and those of Faro, as appearing to him to have been '*went into pillars*, by the *con-*
'cussion' which separated the British Islands from the Con-
'tinent!' pp. 80, 81.

But it is unnecessary to pursue the history of this subject. What we have stated is assuredly sufficient to account for the disgust which arguments so feeble, combined with so much pretension, must have excited in the minds of those who were disposed to doubt the authority of the Sacred narrative, and no less to justify the fear of such discussions entertained by some of the friends of Revelation. Some of the more modern publications connected with the geology of the deluge, are fortunately of a very different character; and the memorable preliminary dissertation of Cuvier, which is decidedly at their head, is not less remarkable for the variety of new and interesting views it presents, than for the general soundness of its reasoning, and the moderation of its tone. We should have hoped that the time for such publications as we have last quoted, was entirely gone by, if some very recent publications did not threaten to take us back again to the darker ages of geology.*

* We may give, as a favourable example, the '*Comparative Estimate of the Mineral and Mosaical Geologies*,' by Granville Penn, Esq. of which a review, full of the highest praise, has appeared in one of the Scientific Journals. This work is evidently the production of a gentleman and a scholar, who writes with the best intentions, after reading very largely upon geology, and seeing very little (we really have not any intention to offend) of the actual appearances of the earth; and it is precisely such a book as might have been expected, upon a subject where the proportion—or disproportion—of the author's qualifications, ought to hold an inverted order. As these pages were going to the press, '*a Supplement to the Comparative Earth*' came into our hands, consisting chiefly of criticisms on the principal subject of Mr Buckland's volumes, founded on this most extraordinary supposition,—that the contents of the caves at Kirk-

The present volume is divided into two parts; the first giving an account of the evidences of diluvial action, afforded by caves and fissures in Great Britain and on the Continent; the second containing an able digest of the proofs to the same effect, afforded by phenomena upon the surface of the earth. The former part is derived from the personal researches of the author; the latter is in a great measure collected from other authorities; but it abounds also in descriptions of what he himself had seen. In a work of this nature, style is of subordinate importance;—and, like Saussure, the author might probably say, that he has been more employed in climbing mountains than in polishing his periods. * But the style throughout is clear, forcible, and perfectly unaffected, and it rises occasionally into a natural and familiar eloquence, which makes us suspect that the writer must be a very entertaining companion, and an excellent public lecturer. He is evidently filled with a lover-like enthusiasm, that ‘annihilates both time and space,’ in the pursuit of his favourite objects; and speaks with the greatest indifference of journeys into Yorkshire, Devon, Wales, and Germany, which, to most persons, would appear rather formidable undertakings. But the effect upon his readers is excellent. It gives life and freshness to the whole discussion, and makes them enter keenly into the spirit of an inquiry, in which the author is himself so ardent. We know, in fact, no book better calculated to make converts to the study of geology.

We propose to give a short abstract of both departments of the volume: but as the cave of Kirkdale is the basis of all the author’s reasoning, besides being itself a subject of great interest, our account of it must enter somewhat more into detail.

In the summer of 1821, a cave was discovered at Kirkdale, near Kirby Moorside in Yorkshire, which was found to contain bones in great abundance. These were first brought into

dale, and other places, were of contemporaneous deposition with the rocks in which they occur, and the caverns themselves produced by the gases evolved, during the putrefaction of the animal bodies, within the substance of the strata, while in a state of softness!! How any person, who had either seen a cave, or read Mr Buckland’s book, could form such an hypothesis, we are utterly at a loss to conceive. Some of the remarks, however, on the Kirkdale evidence, are not undeserving of attention.

* There are some expressions, in which the migratory habits of the geologist have obviously had some share. The phrase, p. 80, ‘that animals are perpetually being lost,’ by falling into old shafts, &c. and a few others of the same description, could not have been written at Oxford.

notice by Mr Harrison, a medical gentleman of Kirby Moorside; and some specimens, among which was a fragment of an hyæna's jaw, being shown soon after to the author of the present volume, he was struck by observing, that the bone and teeth were partially worn down and polished, in a manner very different from the ordinary wear of pebbles, or other hard substances, rolled by a flood; and immediately conjectured that this fragment came from a den of those animals, and that its peculiar appearance had been produced by the feet and skin of the inhabitants in their passage to and fro; and, if so, that the hyæna must once have been a living inhabitant of Yorkshire; a fact which would remove all doubts upon a question of great interest in natural history, respecting the native place of animals belonging to genera confined at present to warm climates, but whose remains are extensively distributed in this country. For the purpose of verifying his conjectures, Mr Buckland went soon after (in December 1821) to the place; and found, in the local circumstances, abundant confirmation of his first opinion. After his return, in examining a collection of specimens from the cave, a substance was detected that was not bone, and the nature of which was doubtful. This was put into the hands of Dr Wollaston (who, on hearing the story, had demanded whether any *Album-Græcum* * was found in the cavern), and was ascertained, upon analysis, to contain the earthy components of bone; and being shown afterwards to the keeper of the wild beasts at Exeter change, it was at once recognised, from its resemblance to the dung of the living hyæna; which animal, the keeper at the same time stated, was, of all those under his care, the most voracious of bone.

The cave in which these extraordinary remains were found, is situated on the side of a ravine, in which runs a small stream, communicating with the Vale of Pickering; and the author

* We have not been able to ascertain satisfactorily the origin of this term. The name is given, in the older Pharmacopœias, to the whitish excrement of dogs and other animals that feed largely on bones; and the substance, which consists in a great measure of the earthy components of bone, was formerly used as a medicine. We have traced, on the authority of Porson, that the words were originally written *album, canis*; and that the apothecaries' apprentices, not knowing what it meant of the Greek character, substituted for the latter term the word *Græcum*. Since the publication of Mr Buckland's book, we have been informed that *Album Græcum* was found in the cave at Kirkstall in a much greater quantity than had been at first supposed, and was intimately mixed with the mud in several places.

supposes—or, we should rather say, conjectures—that the Vale itself was, at some remote period, a lake, held up by a natural dam at the present gorge of New Malton.* The mouth of the cave is about eighty feet above the bed of the stream which it overhangs;—to which height, of course, the water never rises at present, even during the highest floods. The contents of the cavern, and the manner in which they were disposed, were very remarkable: the roof was studded with pendent stalactite, † the bottom incrustated with a coat of stalagmite, and upon it, to the average depth of about a foot, was an unequal deposit of soft mud or loam, the surface of which, when the cave was first opened, was nearly smooth and level; and above the mud was a second coat of stalagmite, in the form of a plate or crust, ‘ shooting across like ice on the surface of water, or cream on a pan of milk; ’ but there was, distinctly, no alternation of mud and stalagmite between this crust and the bottom. It was chiefly in the lower part of the mud, and in the lower stalagmite, ‡ that the bones were found. These were all incrustated with mud or stalagmite, and more or less decayed; but they retained, in most instances, a considerable portion of their original gelatinous matter; they were also, with very few exceptions, broken into ‘ angular fragments and chips; ’ and the fragments projected, in some places, through the stalagmite, as the author has chosen to express it, ‘ like the legs of pigeons through a pie crust.’ The mud contained no rolled pebbles, nor did a single fragment of bone bear the appearance of having been rolled by the action of water.

The animals whose remains were thus discovered, belonged to no less than twenty-three species; viz. Hyæna, Tiger, Bear, Wolf, Fox, Weasel, Elephant, Rhinoceros, Hippopotamus, Horse, Ox, three species of Deer, Hare, Rabbit, Water-rat, Mouse, Raven, Pigeon, Lark, a species of Duck and Par-

* There is some inconsistency, or something that requires explanation, upon this point; for as the excavation of valleys, and the deepening, at least, of that in which the cave at Kirkdale is situated, are ascribed by the author to the deluge,—it may have been that, before that event, no valley whatsoever was in existence where the Vale of Pickering is at present.

† Water, in filtrating through limestone, becomes impregnated with carbonate of lime, which it again deposits on exposure to air; and, in dropping from the roof of cavities, forms pendulous masses, like icicles: these are called *Stalactites*. When the deposit is formed on the floor of the cavity, it is called *Stalagmite*.

‡ On this last point we have heard a different statement; but we do not consider it as very material.

tridge.* The bones, of all kinds, were in the same fractured state, scarcely any but the hard and solid portions remaining entire. Some bore the marks of teeth; and these marks, it is asserted, in some instances fitted exactly the teeth of the hyæna's jaws found in the cavern; not a single skull was found. The bones of the hyænas were as much broken as those of other animals; and the fractures appeared to have been produced by violence, and not by decay. Three hundred hyænas' teeth, being the number corresponding to at least seventy-five individuals, were in the collection of one gentleman. Mr Gibson of Stratford; and, calculating from the total number of teeth found, the cavern must have contained two or three hundred hyænas at least,—some of which had died very young, since their first or milk teeth had not been shed. The horse's teeth were very rare; and the most abundant, perhaps, of all the bones, were those of water-rats.

There seems, then, from the combination of circumstances which we have just stated, to be sufficient reason to conclude, that this cave had actually been an hyæna's den:—and the author's theory is, that, when the cave was thus inhabited, the Vale of Pickering was a lake, containing, among other residents, the hippopotamus, water-rats, and ducks; while the surrounding wilds were occupied by the elephant, rhinoceros, and other beasts, whose remains were found in the cavern:—and that the hyænas, who were lords of the mansion, occasionally brought in fragments, to feast upon at leisure; but, when hard pressed, did not spare their younger brethren, and condescended even, now and then, to devour such diminutive animals as rats and mice.

The peculiar appearance of polish in some of the bones to which we have already alluded, is a fact in support of the former occupation of the cave by living animals, of which the author has availed himself with considerable ingenuity. He concludes his description by stating, that he can imagine 'no other means than the repeated touch of the living hyænas' feet and skin, by which this partial wearing away and polish can have been produced:† for the process of rolling by water would,

* The several animal remains were identified by comparison with specimens in the well-known collections of Mr Brooks of Great Marlborough Street, London, with the aid of the proprietor,—and at the College of Surgeons, with the assistance of Mr Clift; and the plates have since been examined and recognised by M. Cuvier.

† 'I have been informed by an officer in India, that, passing by a tiger's den, in the absence of the tiger, he examined the interior, and found, in the middle of it, a large portion of stone, on which

‘have made pebbles of them, or at least would have broken off the edges of the teeth and delicate points of the fractured extremities of the bone, which still remain untouched and sharp.’ p. 31.

The facts we have just stated make, of themselves, a very strong case; but Kirkdale being the author’s chief position, he has very wisely endeavoured to entrench himself, and has called in the assistance of evidence derived from the habits of the animal, attesting extreme voracity. The living animal, in attacking a dog, ‘begins by biting off his leg at a single snap;’ and the capacity of his teeth for such an operation is obvious. The strength of neck and jaws, for which the race is remarkable, must have been prodigious in the fossil animal; for it seems to have been one third, or even twice as large, as the existing species. And Mr Clift has shown that the skull was provided with two great crests or ridges of bone, affording unusual space for the attachment of muscles. Various proofs are given by travellers of the extreme voracity and strength of the African hyænas, which, it appears, will sometimes combine their powers, and *drag* off the entire carcass even of a camel. But it is less certain that they take the carrion actually into their dens; and we find it has been mentioned lately, in a paper read at the Wernerian Society of Edinburgh, * that, in South Africa, they are not in the habit of doing so: Nor is what Busbequius says on this point so decisive as the author seems to consider it. † We have not heard indeed that any body has seen the inside of a living hyæna’s den, a visit to which, if the proprietor happened to be at home, might not be very agreeable. On this and some other points, the testimony of travellers is much to be desired; for the light which the habits of the animals may afford, in confirmation or correction of the author’s opinions, is still very far from being exhausted.

That wild animals, even of the same species, should eat each

‘the animal reposed, to be worn smooth and polished by the friction of his body.’ A stone of the same kind occurs in a cave in Franconia; and a similar effect may be observed on the marble steps and altars of churches; portions even of metallic statues, that are favourite objects of pilgrimage, are sometimes kissed away by the adoration of their worshippers. The well-known bronze statue of St Peter at Rome has lost a part of the great toe in this manner.

* Edin. Phil. Journal, Vol. viii., April 1823, p. 386.

† The words are, in speaking of the carcass preyed upon—‘portat ad suam speluncam, juxta quam videre est ingentem cumulum ossium,’ &c.

other occasionally, will not be thought extraordinary, since they must all be exposed, at times, to extreme starvation. Mr Brown, in his journey to Darfur, has mentioned of the hyæna, that when one is wounded, his companions tear him to pieces and devour him; and 'though the idea of hyænas eating such small animals 'as rats, may appear ridiculous, it is consistent with their omnivorous appetite.' Captain Parry supposes, that, at Melville Island during long winters, the wolves and foxes feed chiefly on mice; and Hearne says, that ground squirrels, and perhaps mice, constitute a favourite part of the food of the bears of North America. 'If bears,' Mr Buckland adds, 'eat mice, why should 'not hyænas eat rats?' But the story of their eating their own limbs is certainly founded on mistake; the fact being, that the animal is sometimes affected by a disease, which produces extreme itching, and causes it to gnaw its extremities, so as at last to consume a portion of them, as is sometimes done by monkies under similar suffering.

The marks of teeth upon the bones at Kirkdale, are strongly in favour of Mr Buckland's theory; and it appears, that Mr Sack of Bonn had observed similar marks on the bones of the rhinoceros and deer found in a cave at Sundeik in Westphalia, along with remains of the hyæna.—But the best evidence, perhaps, on this point, has been obtained experimentally.

'Since this paper was first published, I have had an opportunity of seeing a Cape hyæna at Oxford, in the travelling collection of Mr Wombwell, the keeper of which confirmed, in every particular, the evidence given to Dr Wollaston by the keeper at Exeter Change. I was enabled also to observe the animal's mode of proceeding in the destruction of bones: the shin-bone of an ox being presented to this hyæna, he began to bite off, with his molar teeth, large fragments from its upper extremity, and swallowed them whole as fast as they were broken off. On his reaching the medullary cavity, the bone split into angular fragments, many of which he caught up greedily, and swallowed entire: he went on cracking it, till he had extracted all the marrow, licking out the lowest portion of it with his tongue: this done, he left untouched the lower condyle, which contains no marrow, and is very hard. The state and form of this residuary fragment are precisely like those of similar bones at Kirkdale; the marks of teeth on it are very few, as the bone usually gave off a splinter before the large conical teeth had forced a hole through it; these few, however, entirely resemble the impressions we find on the bones at Kirkdale; the small splinters also, in form and size, and manner of fracture, are not distinguished from the fossil ones. I preserve all the fragments and the gnawed portions of this bone, for the sake of comparison, by the side of those I have from the antediluvian den in Yorkshire: there is absolutely no differ-

ence between them, except in point of age. The animal left untouched the solid bones of the tarsus and carpus, and such parts of the cylindrical bones as we find untouched at Kirkdale; and devoured only the parts analogous to those which are there deficient. The keeper, pursuing this experiment to its final result, presented me the next morning with a large quantity of *Album Græcum*, disposed in balls, that agree entirely in size, shape and substance, with those that were found in the den at Kirkdale. I gave the animal successively three shin-bones of a sheep; he snapped them asunder in a moment, dividing each in two parts only, which he swallowed entire, without the smallest mastication. On the keeper putting a spar of wood, two inches in diameter, into his den, he cracked it in pieces as if it had been touchwood, and in a minute the whole was reduced to a mass of splinters. The power of his jaws far exceeded any animal force of the kind I ever saw exerted, and reminded me of nothing so much as of a miner's crushing-mill, or the scissors with which they cut off bars of iron and copper in the metal founderies.' pp. 37, 38.

We have seen some portions of the bones broken in this experiment, and compared them with specimens from the Kirkdale cave. The author also has given a plate of both; and nothing certainly can be more complete than the resemblance in the form of the fragments, and the traces of the teeth.

On the whole, therefore, though some points of difficulty are still to be removed, it does appear to us, that Kirkdale, if it stood alone, affords good evidence as to the fact, that the hyænas and other animals whose remains are found there, once lived in England. 'It was indeed probable,' says Mr Buckland, 'before the discovery of this cave, from the abundance in which the remains of similar species occur in superficial gravel-beds, which cannot be referred to any other than a diluvial origin, that such animals were the antediluvian inhabitants not only of this country, but generally of all those northern latitudes in which their remains are found (but the proof was imperfect, as it was possible they might have been drifted or floated hither by the waters, from the warmer regions of the earth); but the facts developed in this charnel-house of the antediluvian forests of Yorkshire, demonstrate, that there was a long succession of years in which the elephant, rhinoceros, and hippopotamus had been the prey of the hyænas, which, like themselves, inhabited England in the period immediately preceding the formation of the diluvial gravel; and if they inhabited this country, it follows, as a corollary, that they also inhabited all those other regions of the northern hemisphere, in which similar bones have been found under precisely the same circumstances.' pp. 42, 43.

Of the points, which, in this passage, are supposed to be demonstrated, it appears to us, that the date of the period during which the animals in question existed as inhabitants of Eng-

land, and which the author states to have *immediately preceded* the formation of the diluvial gravel, is by much the least certain. In the circumstances of the cave itself, there is unquestionably no evidence as to time; and the only standard by which we can be enabled to estimate the interval between the first deposition of the animal remains, and the period when they were enveloped by the mud, is derived from the perfect preservation of the bones; which Mr Buckland ascribes to their encasement and protection by the mud having taken place at too short an interval after the death of the animals, to admit of decay. We do not absolutely object to this reasoning; but the argument, upon a point of so much importance, is far from being decisive; since the time required for the decomposition of bone, though not so protected, is in itself uncertain; while the assumed fact of long continued occupation of the caves, before the deluge, would have led us to expect some variety of condition, and some traces of decay, in the bony fragments themselves. But the fact of residence, we do think, is proved as fairly as the nature of the question will allow.

Here, then, since the greater number of these animals whose remains are found in the caves, belong to genera which are at present the inhabitants of tropical climates only, arises the very interesting question, whether the extinct species were adapted to more northern latitudes, by any peculiarities distinguishing them from the existing race? or, our climate been itself brought down, by a fall of temperature, to its present state? The former opinion has been maintained by Cuvier, and is supported by the fact, that a covering of down or woolly hair was actually found upon the skin of the Siberian elephant and rhinoceros. But it may be objected, that, even supposing these animals to have been capable of enduring the cold of Siberia, they must have wanted sustenance during the rigours of a Polar winter (for such beasts as the hippopotamus cannot be supposed to have migrated to the South), unless a totally different state in the vegetation also of the northern regions had existed, to furnish them with food. It might be added, that the fact of the remains of crocodiles, of tortoises, and of vegetables and shells, nearly allied to those which are peculiar to hot climates, being found in the secondary strata, as well as in the diluvium of high northern latitudes, renders it probable that the temperature in which these plants and animals had lived, and were deposited, was warm. But this last argument is not strictly applicable to the case immediately before us, since the fossils of the solid strata belong to a geological era altogether different from that of the diluvial gravel. The subject is certainly deserving of further investiga-

tion; but the balance of probability seems at present to be more in favour of such a change of climate as we have mentioned, than of the various and extensive alterations which must otherwise be supposed to have taken place in the animal and vegetable kingdoms.

But the cave of Kirkdale, in itself, affords no evidence as to the mode in which its former inhabitants perished. If, as the author supposes, the Vale of Pickering was at one time a lake, the mud may have been produced by the overflow of its waters; and their rise to a sufficient height for that purpose, before the breaking down of the present gorge at New Malton, seems not at all improbable. The animals may have deserted the cave some time before this invasion; and the different species, whose remains are now found within the cavern, may have been gradually exterminated, or have naturally faded away. The mode of their destruction acquires much greater importance, when we become acquainted with the close resemblance of the phenomena presented by this cavern, to those of other caves and fissures in distant places; and with the connexion of the whole with another extensive class of appearances, all concurring to demonstrate an universal inundation of the globe. Mr Buckland next applies himself to this wider field of inquiry; and here it may be necessary to anticipate what belongs more directly to the latter portion of the volume, for the purpose of enabling our readers to follow the author's researches, and to enter into the arguments which he has derived from them.

1st, It requires but a very slight acquaintance with the strata of the globe to perceive, that the mechanical agency of water (or rather of solid matter suspended and transported by water),* has had a large share in the formation of all parts of the earth's surface; since rounded and water-worn fragments, more or less cemented, together with gravel and sand,—are of frequent occurrence,—in beds which alternate with all the more solid strata,—except perhaps those of the oldest primary rocks. The existence and destruction of organized beings must also have been of very ancient date, since their remains are found enclosed in the substance of rocks of all ages, with the same exceptions; and as the strata themselves have obviously been the produce of more tranquil agency than that by which gravel must have been

* It has been shown, especially by Mr Brongniart, in an excellent memoir (article *Eau*, Dictionnaire des Sciences Naturelles), that water, when unassisted by the suspension of solid matter, has no sensible effect in the construction of rocks.

formed, repeated submersions of the surface, with alternations of violent action and repose, seem to be required, in order to account for these appearances.

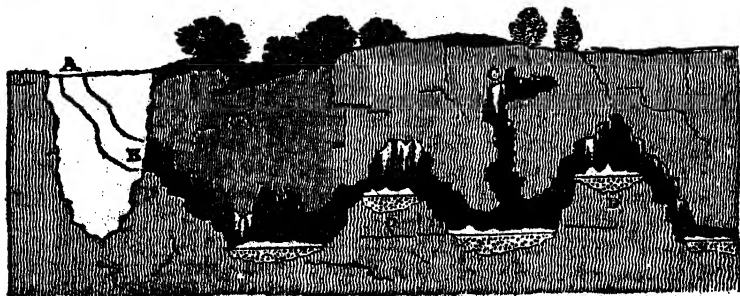
2dly, Above all the more regular beds which we have just described, accumulations are every where found—in the form of silt, sand, gravel, and water-worn fragments, which frequently contain (in addition to fragments of the solid strata) the remains of animals very like those at present inhabiting the globe, but distinct from any that have been discovered in the strata themselves. These last accumulations are not, as in the former case, succeeded by, nor do they ever alternate with, any solid beds of uniform composition, but are always found indiscriminately above them; and they are evidently the products of hasty and tumultuous operations, more recent than the period when the solid strata were deposited. Many of the earlier naturalists, and more recently Catcott, not perceiving, or neglecting this important distinction, assumed that no more than *one* great action of water had contributed to the present condition of the earth; confounding the productions of the two epochs just now mentioned, and ascribing the occurrence of organized remains in both to the same period*—an error which occasioned great embarrassment, and led, as we have already intimated, to much controversy. But all geologists, we believe, now agree in regarding the latter gravel as the product of a revolution comparatively recent, and leave the events of prior date in the history of the globe to be illustrated, if ever they shall be, by future and more fortunate inquiries.

Thus, then, we have *three* distinct epochs, which it is very important to keep in view; and, for this purpose, Mr Buckland

* Linnæus, however, was fully aware of this distinction, and has expressed himself in relation to it with his usual quaintness.—‘*Qui hæc omnia deluvio adscribit, quod cito ortum, cito transiit, is profecto peregrinus est in naturæ cognitione, et ipse cæcus, aliorum oculis videt, si quid videt.*’ *Oratio de Tell. habitab. incremento Amoenit. Acad. II. p. 416.* Robinson had said, long before, ‘*It cannot be imagined, that those shell-fish should be lodged, and petrified to stone, upon the tops of high mountains, and enclosed in the middle of hard rocks, by that general flood.*’ (*Westmoreland, &c. p. 53.*) And it would appear that, so far back as the year 1517, Tracastoro had enounced the same opinions. Our countryman Mr Smith also entertained correct notions upon this subject, and was one of the first who diffused them in England; but, on the Continent, it is to Cuvier that the prevalence of just views is principally to be ascribed.

has proposed * to limit the term *alluvial* to those partial deposits, the origin of which may be referred to the daily action of torrents, rivers and lakes; appropriating the term *diluvial* to the universal accumulations of loam and gravel, and *antediluvial* to the solid and still more ancient strata. The chalk-beds, oolite, lias, &c. may be taken as examples of this last division. The remains of fossil elephants, which are very generally diffused, may be considered as characteristic of the *diluvial* deposits. The *alluvial* sands, &c. of rivers, are familiar to all our readers.

It would appear that secondary Limestone, of almost every age, has been universally pervaded by fissures more or less cavernous; and that the phenomena connected with them, as the occasional absorption of rivers, &c. are everywhere alike. The mode of the formation of these cavities has not yet been explained; but it must have been of very ancient date: And it can easily be imagined, that if a tract composed of beds containing such vacuities were torn up and furrowed by a deluge, the newly formed valleys would cut the branching fissures in the most varied and irregular manner; so that the mouths of the remaining portions of the original caves would frequently open on the sides of the valleys; and sometimes, where they had at first been open to the surface at considerable distances from their former places of communication with it, and as the same operation also conveyed more or less of the suspended matter into the cavities, those which opened immediately upwards would be frequently blocked up.



The annexed sketch is a supposed vertical section, along the

* In a valuable 'Table of the superposition of the strata in the British Isles.' It should not be forgotten, however, that the productions of Mr Smith, of which we have given an account (Edin. Rev. Vol. 29, p. 511, &c.), have been practically the foundation of this, and all the other enumerations of the English strata that have since appeared.

course of such a cave as we have now described, and at right angles to a valley into which it opens; A, representing the supposed place of the entrance, before the excavation of the valley; B, the actual entrance in the face of a cliff on its side; and C, a tabular passage which probably may have once communicated with the surface, but is now closed above.

As the agents concerned in the production of the phenomena we have just described, were of universal operation, considerable uniformity, in the resulting appearances, was to be expected in every quarter of the globe; and the author has accordingly found, that the caves and fissures themselves which he has examined, in England and Germany, are every where of the same construction. The next point of inquiry was, whether the nature and circumstances of their contents were the same, in other caves and in other places, as at Kirkdale; and here too the evidence is very complete and satisfactory: but we can mention a few only of the more remarkable circumstances.

Not long after the author's examination of the cave above described, a second cavern was found at Kirkdale, which was examined in the presence of Mr Buckland, accompanied by Sir Humphry Davy and Mr Warburton. It contained no bones; but the floor was covered with mud, six feet in depth, partially glazed over with stalagmite; and it agreed in every respect with the first. The absence of bones, the author justly remarks,—the mud being present,—adds to the probability, that it was the instrumentality of the hyænas, and not of the waters, that introduced the animal remains in the former instance. About the same time also with this second cave, a great irregular crack or chasm was discovered in the limestone rock of Duncombe Park, near Kirkdale, terminating upwards in a small aperture, and lying like a pitfall across the path of animals; the crack itself descending obliquely, presented several ledges or landing places, strewn with fragments of limestone, and with the dislocated skeletons of animals, that had fallen in and perished. These bones were all comparatively fresh, and lay loose and naked on the places where the animals died; and, the author infers, that if fissures, as he thinks probable, existed in the antediluvian face of the earth, in much greater number than at present, the then existing animals must have fallen into them and perished, in the same way as happens at present; an accident to which the habits of gaminivorous animals render them much more liable than beasts of prey; and this, he thinks, will account for the comparatively greater frequency of the remains of the former, in the antediluvian fissures. A cave, which was discovered about the same time in Derbyshire, demonstrates the connexion

which subsisted in the former state of the globe, between such fissures as we have just described, and caverns containing bones. In sinking a shaft near Wirksworth, the miners suddenly penetrated a cavity filled with loose materials, in the centre of which, nearly all the bones of a rhinoceros were discovered, along with those of an ox, and some of deer. As the work advanced, the loose mass continued to subside, and at length an open chasm, the existence of which had never been suspected, appeared, at some distance, in the surface of the field above. The author found, that the projecting parts on the sides of this chasm, were rubbed and scratched by the descent of the rocky fragments as they had dropped in. From the situation of the rhinoceros, it seems probable, that the carcass had been drifted into the cavern entire, at the same time with the diluvial matter.

A suite of cavities in the same neighbourhood establishes another important fact in this investigation; being situated near the edge of a high cliff, and far above the possible influence of any floods from the nearest brooks and rivulets: so that it is impossible to ascribe to their agency, the enormous deposit of ochreous mud which the cavern contains. Several of the caves in Germany also occur at heights far above the access of any of the existing river-floods.

A remarkable series of caverns, discovered a few years ago in the limestone of Plymouth, had been supposed to furnish an instance of complete enclosure, within the substance of a solid rock, of the remains of the same animals, which had in every other case been found in situations communicating with the surface. These caves also have been examined by the author in company with Mr Warburton; and his account of them, which is very full and satisfactory, corrects this erroneous opinion; and explains the causes of the deception, which arose merely from the intersection of the cavities, in places distant from their original openings. The remains last discovered in the Plymouth caves have been described with great accuracy by Mr Clift, and represented by that gentleman with his usual skill, in the *Phil. Trans.* (1823). Among these, were the bones of an hyæna, remarkable for its great size, the skull of which afforded those indications of extraordinary muscular power in the animal to which we have already alluded.

The story of a cave at Paviland, near the Worm's Head on the coast of Glamorganshire, is remarkable from its giving an account of part of a human skeleton which was found there. The cavern is on the sea-shore; and where the floor is beyond the reach of the sea, it is covered with loam, containing fragments of limestone, recent sea-shells, the teeth and bones of the ele-

phant, and of several other quadrupeds, introduced by diluvial action; and of a woman, who, it would appear, had formerly inhabited the cave, and whose age and occupation may possibly receive some light from the remains of a British camp existing on the hill immediately above. The author thinks it probable that she was buried, with her habiliments, in the cavern, about the time of the Roman occupation of Britain.

Mr Buckland begins his account of some of the most remarkable of the caves in Germany, which he himself examined during the summer of 1822, by stating, that 'there prevails throughout them all, a harmony of circumstances exceeding what his fullest expectations would have anticipated: all tending to establish the important conclusion, of their having been once, and once only, submitted to the action of a deluge, and that this event happened since the period in which they were inhabited by the wild beasts.' p. 108.

The chief difference between the state of these caves and those of England seems to be, that the mouths of the former have in some instances remained open, and that they have been again occupied, in their postdiluvian state, by animals; and would, at this moment, probably have been tenanted by wild beasts, had not the progress of human population extirpated them from that part of the globe.

The circumstances which this examination has enabled the author to add to the descriptions previously given of the German caverns, are, principally, the occurrence of *pebbles* in the earthy sediment, and the important fact, that no bones whatsoever were discovered in any part of the naked or solid rock; the whole being confined, in every case, to *the mud* deposited in the lower part of the cavities,—a point upon which a different statement had frequently been made. The general state of their interior agrees with that of Kirkdale, in presenting, 1st, A false floor of stalagmite; 2dly, A bed of loam or diluvial mud, interspersed with pebbles, angular stones and bones, but without any alternation of stalagmite; 3dly, Beneath this mud is the actual floor, which is sometimes polished, as if by the trampling of the inhabitants.

'In these caverns which seem to have been dens before the introduction of the mud, the bones increase in quantity as we descend to the lower vaultings, 'or cellarage;' which are choked up with the confused mass of bones, pebbles, and mud. In some places this mass is consolidated by calcareous infiltrations, into a hard osseous-breccia, * resembling that of Gibraltar, but not so red, in which gal-

* The term *Breccia* is applied to angular fragments of stone (or bone) united by a stony cement.

leries have been dug, to extract the bones ; and of these artificial galleries only, it is true, that the roof and sides have bones adhering to them,—for in the natural chambers, there is not a single bone except upon the floor.’ p. 111.

The detailed account of the German caves is very entertaining ; but we have space only for some of the more prominent circumstances. The section of the Biels-Hohle shows, that the entire cavity must have been filled, at one time, with a fluid suspending a considerable proportion of mud ; for the interior is traversed by a series of rocky partitions, which, in passing through the cavern, it is necessary to mount and descend by ladders ; and these have uniformly, on their tops, a deposit of mud, over which is a crust of stalagmite like that upon the mud of the general floor. In the figure already given at page 217, two such partitions are represented at DD, the dotted spaces above them expressing the situation of the mud, and the white crust the incumbent coat of stalagmite. A cave at Zahnloch (the hole of teeth) in Franconia, which takes its name from the abundance of fossil teeth that have been extracted there, has within it an insulated block of stone about six feet high, which stands ‘ like a sarcophagus,’ and is described as having its surface polished, most probably by the friction of the skin and paws of the bears by which it was inhabited. Kuhloch is the only cave examined by the author, excepting that of Kirkdale, in which the animal remains have escaped the effects of diluvial action ; and ‘ the only one’ he adds, ‘ in which I could find the black animal earth, said by other writers to occur so generally ; and for which many appear to have mistaken the diluvial sediment in which the bones are so universally imbedded ! The facts respecting this extraordinary accumulation are very curious. It is literally true, that in this single cavern, (the size and proportions of which are nearly equal to those of the interior of a large church), there are hundreds of cartloads of black animal dust, entirely covering the whole floor, to a depth which must average at least six feet ; and which, if we multiply this depth by the length and breadth of the cavern, will be found to exceed 5000 cubic feet. The whole of this mass has been again and again dug over, in search of teeth and bones, which it still contains abundantly, though in broken fragments. The state of these is very different from that of the bones we find in any of the other caverns, being of a black, or, more properly speaking, dark umber colour throughout ; and many of them readily crumbling under the finger into a soft dark powder, resembling mummy powder, and being of the same nature with the black earth in which they are imbedded. The quantity of animal matter accumulated on this floor is most surprising, and the only thing of the kind I ever witnessed ; and many hundred, I may say thousand individuals must have contributed their remains, to make up this ap-

pulling mass of the dust of death. It seems in great part to be derived from comminuted and pulverized bone; for the fleshy parts of animal bodies produce, by their decomposition, so small a quantity of permanent earthly residuum, that we must seek for the origin of their mass principally in decayed bones. The cave is so dry, that the black earth lies in the state of loose powder, and rises in dust under the feet: it also retains so large a proportion of its original animal matter, that it is occasionally used by the peasants as an enriching manure for the adjacent meadows.' pp. 137-8.

The peculiar form of this cavern may perhaps explain the undisturbed state in which the interior has remained:—a narrow passage which leads into the great chamber being considerably inclined, for thirty feet from its mouth, and no part of the interior intersected by any other cave or fissure: whence the introduction of pebbles, and the action of water within the cave, must have been considerably impeded; and the author, indulging his imagination, adds, that 'from its low position, it is also probable, that this vault formed the deepest recess of an extensive range of inhabited caves, to which successive generations of antediluvian bears withdrew themselves from the turbulent company of their fellows, as they felt sickness and death approaching. The habit of domesticated beasts and birds to retire and hide themselves, on the approach of death, renders it probable, that wild and savage beasts also do the same.' p. 141.

'Allowing two cubic feet for the dust of each individual, we shall have, in this single vault, the remains of at least 2500 bears; a number which may have been supplied in a thousand years by a mortality of two and a half per annum.' Chevreuil, from whom we believe the standard is taken as to bears, states, that a horse totally decayed, affords about one cubic foot of solid matter.

The fissures containing fragments of bone, cemented by stalactitic matter, which occur at Gibraltar, and in several other places on the northern shore of the Mediterranean, have evidently considerable analogy to the cavities above described; and they are rendered the more interesting, from Mr Cuvier's having formerly been of opinion, that the greater number of the animals whose remains this 'breccia' affords, belonged to species still in existence, and, consequently, were deposited at a more recent period than that of the deluge. The author however had suggested,* that the discovery, in the Mediterranean breccia, of any one of the extinct animals, would be sufficient to establish its more ancient date; and such remains have since actually been found: the tusks of an extinct lion or tiger occurring in the breccia of Nice and Antibes;

* Phil. Trans. 1222.

and bones of the bear in Italy. Mr Cuvier has consequently abandoned his original opinion; and in a very full account of the animal remains in several places on the coast of the Mediterranean, in the last edition of his admirable work on Fossil Remains, he assigns them to the same geological period, as that of the extinct species of the more northern parts of Europe.*

We shall close this part of our abstract, by giving, in the words of the author, what appears to us to be one of the most important of all the inferences derivable from his researches, that 'the present sea and land have not changed places; but that the antediluvian surface, of at least a large portion of the northern hemisphere, was the same with the present one. Since those tracts of dry land in which we find the ossiferous caves and fissures, must have been dry, also, when the land animals inhabited or fell into them, in the period immediately preceding the inundation by which they were extirpated. And hence it follows, that wherever such caves and fissures occur, *i. e.* in the greater part of Europe, and in whatever districts of the other continents such bones may be found under similar circumstances, there did not take place any such interchange of the surfaces occupied respectively by land and water, as many writers of high authority have conceived.' pp. 162-3.

As this deduction appears to be fairly derived from the facts which Mr Buckland supposes to be proved respecting the caves in Yorkshire, and their antediluvian inhabitants, and may be extended, by analogy, to every part of the surface of the globe, from the probably universal diffusion of limestone containing caverns, and the existence, in such caverns, of fossil bones; it renders doubly necessary the most exact investigation of the evidence that forms the basis of his reasoning. We should be sorry to see him engaged in controversy; but we have no doubt that he will take every opportunity to confirm, or correct his statements, upon all the points in the inquiry, which are at present doubtful or obscure.

It is still very remarkable, that no authentic instance has ever occurred, of the existence of human bones in a fossil state. The '*homo diluvii testis*' of Scheuchzer turned out to be a great lizard; the skeletons from Guadaloupe, one of which has been described by Mr König in the *Phil. Trans.* for 1814, are supposed, from the nature of the stone and the character of the situation in which they are found, to be comparatively recent. The instances of the reported discovery of the fossil bones of man, in England, are all, like that of the woman of Paviland, when closely examined, of modern date; and the only remaining case, attended with any doubt, is mentioned in the introduction to the pe-

* *Ossements fossiles.* 2d Edit. vol. iv. pp. 224. 486.

trefactenkunde of Baron Von Sclotheim.* It appears, that the caves and fissures which occur in beds of limestone and gypsum, in the valley of the Elster, not very far from Leipsic, contain the bones of various animals, belonging, both to extinct and to existing species, the latter including man. In one such cavity, human bones were found at the depth of eight feet below those of a rhinoceros, and twenty-six feet from the surface. They appear however to have been introduced, at a subsequent period, into the diluvial loam, which had before contained more ancient bones and pebbles; but by what means, or at what precise period, remains to be ascertained. A single fragment of a human bone, obtained unequivocally, and under the same circumstances with those of any extinct species of other animals, would be conclusive on this point, which is of the greatest importance; because, till such remains, or some productions of human art be so found, there is really no *physical* evidence of the existence of man before the deluge.—So many circumstances point to the East, as the most ancient habitation of mankind, that the discovery might probably be expected from thence, if the condition of the country, the want of roads, and consequently of open gravel-pits, and the rare access of intelligent inquirers, did not almost shut us out from that extensive region.

The remains of hyænas had never been discovered in England till the opening of the cave at Kirkdale; but soon afterwards some fossil bones were accidentally brought to the author from Lawford, near Rugby in Warwickshire; and ‘the instant I saw them,’ he tells us, ‘I was enchanted to find the entire under jaw, and entire radius and ulna of a very old and large hyæna; supplying the only link that was deficient, to complete the evidence I wanted to establish of the hyæna’s den at Kirkdale.’—We can readily imagine his delight upon this occasion; it can have been exceeded only by his enjoyment in witnessing the performance of Mr Wombwell’s living hyæna, upon the bones that were presented to him at Oxford. There were not the slightest marks of fracture in these remains; and this, Mr Buckland thinks, is consistent with the different circumstances of this individual from those in the cave; for the hyæna at Lawford appears, from its position in the diluvial clay, to have been one that perished by the inundation which extirpated the race, as well as the elephant, rhinoceros, and other

* Translated with observations by Mr Weaver. *Annals of Phil.* Jan. 1823.

tribes that lie buried with it; and consequently, 'as it could have had no survivors to devour its bones,' we should expect to find them entire.

The discovery of the remains of this rare animal, in situations so different as the interior of the cave at Kirkdale, and the gravel of Warwickshire, and with appearances so distinct, leads naturally to the consideration of the evidence of a general inundation presented by the *surface of the globe*,—which forms the subject of the second part of the volume. So much however had been already done upon the subject, by preceding geological writers, that there was here little scope for novelty of observation; but the author has brought the facts together so well, and so ably connected the result of his own researches, especially in England, with information derived from other quarters, as to make this portion of the book unquestionably one of the most satisfactory, in this department of inquiry, with which we are acquainted.

The chief proofs of diluvial action on the surface of the earth are derivable, *1st*, From the accumulations of loam and gravel universally diffused over the surface, and the remains of animals which they are generally found to contain; and, *2dly*, From the form and structure of the valleys and other inequalities, by which the solid materials of the globe have been superficially hollowed out.

The loam, so widely diffused, possesses no character by which it is easy to ascertain its origin; but the gravel contains fragments that can often be traced to their origin, at considerable distances, and which attest the agency of the forces that have separated and transported them. Both of these deposits exist in vast quantity along the eastern coast of England; and there, as every where else, they are found to contain the remains of animals, of the same species as those which occur in caves and fissures. The bones of elephants especially, are very widely diffused both on the Continent and in this country; and not unfrequently are found in the gravel under the streets of London. The pebbles, or masses of stone which form the gravel, are derived, principally, from the wreck of the rocks of the adjacent districts; but with these are almost always mingled, fragments frequently of great bulk, drifted from very considerable distances,—the intervening spaces being, in many instances, at present, intersected by deep valleys, or branches of the sea. Thus, in England, we have blocks which appear to have been transported from Norway,—as the granites of Finland have been over the plains of Russia and the north of Germany. A con-

considerable mass of evidence is produced by the author, to prove that a *diluvial current*, *from the north* is the only adequate cause that can account for these appearances; and he has, in an Appendix, given a memoir on the gravel of the River Thames, and of the rivers that fall into it; * demonstrating the agency of such a current in England; and tracing pebbles of the quartz which compose the Lickey-hill in Warwickshire, over the whole intervening tract, from thence to London.

The west of England affords similar proofs of the agency of currents; the highest summits of Devon and Dorsetshire being strewed over with pebbles, that must have been lodged there before the excavation of the present valleys. In Scotland, Colonel Imrie has detected marks of attrition on the surfaces of the rocks, from the rapid passage of heavy bodies apparently driven by water. And Sir James Hall concludes a very able paper, † in proof of the agency of similar currents in the vicinity of Edinburgh, by stating, that ‘all the diluvial facts in that neighbourhood concur in denoting one inundation overwhelming the solid mass of the district,—this inundation being the last catastrophe to which it has been exposed.’ Similar evidence of diluvial action in Ireland, is derived from the memoir of Mr Weaver, on the eastern portion of that Island; and, on the Continent, from the writings of various authors, and of Mr Buckland himself.

The most important information, however, in proof of the universality of a deluge, was to be obtained from distant countries; and on this point the author refers to a paper on the vicinity of Lake Huron in North America, by Dr Bigsby; ‡ who has traced in that country, the action of a violent flood from the north, and noticed effects similar to the denudations of Europe; in the structure of the valleys, the wearing away of the highest summits, &c.; and the formation of vast accumulations of sand and gravel, containing fragments which also can be shown to have come from the north. Similar evidence has been obtained from other parts of North America, so as to leave no doubt of general diluvial action in that country; and, the author adds, that ‘the presence of the bones of elephants and other extinct animals, which are common to both continents, shows that the *time* of its occurrence was in each case the same;’—an argument, the force of which we must con-

* Geolog. Trans. Vol. v.

† Trans. R. S. Edin. Vol. vii.

‡ To be published in the Geol. Trans. Vol. i. Part 2. New Series.

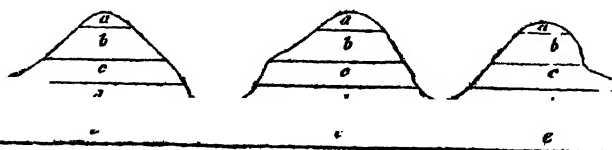
fess we cannot perceive, and to which we shall have occasion to recur.

That such effects are not confined to the lower regions of the earth's surface, is proved, decidedly, 1st, By the forms of the highest mountains, which are universally modified in the same way as the lowest hills of the globe; the highest valleys also containing diluvial gravel like what occurs below. 2^{dly}, By the existence of great masses of rock, transported across valleys from the most elevated points; as from Mont Blanc, the highest point of Europe, to the Jura. 3^{dly}, By the discovery of the remains of animals in the diluvium of the highest regions; as of the mastodon, and fossil species of elephant in the lofty plains of Quito and Mexico; the former at the height of 7,800 feet above the sea;—and still more remarkably, by a recent discovery of fossil bones in the Himalaya mountains. These last remains, which are now in the Museum of the Royal College of Surgeons in London, were procured by Captain W. S. Webb, from the Chinese Tartars of Daba; who assured him that they were found in the north face of the snowy ridge of Kylas, in lat. 32°, at a spot which he calculated to be not less than 16,000 feet high. They are only obtained from the masses that fall with the avalanches, from the regions of perpetual snow; and are therefore supposed by the natives to have fallen from the clouds, and to be the bones of genii. They belong to a small species of horse, and a species of deer. * Their medullary cavities and cancelli are filled with white crystalline carbonate of lime, and their matrix is a grey calcareous sand, interspersed with small concretions of carbonate of lime. 'The occurrence of these bones,' adds the author, 'at such an enormous elevation, in the regions of eternal snow, and consequently in a spot now unfrequented by such animals as the horse and deer, can, I think, be explained only by supposing them to be of antediluvian origin, and that the carcasses of the animals were drifted to their present place, and lodged in sand, by the diluvial waters.' pp. 222, 223.

The effects of water upon the solid strata of the globe have been the subject of much geological debate; but it is now almost universally admitted, that valleys have been excavated by causes no longer in action,—contrary to the opinion of Dr Hutton and Mr Playfair, who maintained that they were formed by the long continued erosion of the streams which actually run through them. This question had been long since placed in a

* The bones of a species of bear have also it seems been found, upon the same spot. *Qy. Rev.* No. 57. pp. 155, 156.

very convincing light by Hutchinson and his disciple Catcott; * who have shown, that the surface at present furrowed by valleys, must have been in many cases continuous; and this, in innumerable instances, where streams do not exist at all, (as every chalk down clearly shows), or where the existing streams are quite inadequate to the effect. Thus, in a series such as is here represented,



the portions of the beds, *a*, *b* and *c*, at present detached from each other, must once have been continuous; *d*, has only been partially cut through; and *e*, has been left untouched, merely because the excavation did not cut deep enough. The coast of Dorset and Devon exhibits a case of this kind very beautifully; and with the greater distinctness, because the beds, which are there intersected, by valleys nearly at right angles to the coast, are so different from each other, and so unlike in appearance (chalk, green sand, oolite, lias, and red marl), that there is no difficulty in tracing them, and no doubt as to their former connexion. The author's paper on this part of the coast, † which he has subjoined in an Appendix, is accompanied by a map and explanatory views, and illustrates very clearly this important step in his argument.

This very elaborate inquiry is closed by a summary of the arguments, by which Mr Buckland conceives that he has established the concurrence of 'a transient deluge, affecting universally, simultaneously, and at no very distant period, the entire surface of our planet.' (p. 146.) And the following appears to us to be the chain of proofs. 1st, The universal diffusion of diluvial gravel and water-worn fragments proves, that at some time or other, an inundation has taken place in all countries.

* Some ingenious observations on the vallies of chalk, are to be found in 'A Dissertation upon the Surface of the Earth, as delineated in a Sketch of a Philosophical Chorographical Chart of East Kent, &c.' By Christopher Packe, M. D. 1787.

† From the Geol. Trans. 2d Series, Vol. i. p. 95. The remaining geological relations of the beds in question have been described by Mr Delabèche. Ibid. p. 40.

2d, The frequent occurrence of portions of rocks, at great distances from the masses whence they must have been detached, shows that this inundation must have acted, at the same time, upon very large portions of the surface. The wide diffusion of similar organic remains, and the traces of the action of great currents in the same direction, tend also to establish this fact. 3d, The general resemblance of all diluvial accumulations; and the similarity in the forms of mountains and valleys, throughout the globe, show that these extensive inundations were also every where of uniform character. 4th, The identity of extinct organic remains, in various quarters, and the circumstances under which they are found, show, that the species of animals no longer existing were extinguished by such an inundation; and that it probably was sudden and transitory. *Lastly*, The fact, that the tops of the highest mountains were inundated, is proof that the deluge was not only *universal* but *simultaneous*, since the sinking of the land beneath the sea is disproved by the identity, which has been shown to exist, of the present, with the antediluvian surface of the globe.

In considering the force of this reasoning, it is hardly necessary to premise, that to doubt the validity of the physical proof, by which any portion of history is supposed to be confirmed, is a very different thing from asserting that the history itself is false,—since the facts narrated may be preternatural, and consequently beyond the reach of physical support;—our interpretation of the narrative may be erroneous;—or the proofs may be insufficient, from the deficiency of our information. We are anxious to guard against misunderstanding upon this point, because, although our own belief in the truth of Revelation rests upon grounds too firm to be shaken by any failure of coincidence between the results of physical inquiry and sacred history, we should be sorry, upon a subject of such great importance, to offend even the prejudices of any person from whom we may differ in opinion.

That there has been a deluge, affecting universally all parts of the earth's surface, and producing every where the same or similar effects, no person who has duly examined the evidence can deny. If any doubt remained upon this subject, it must be dispelled by the luminous and decisive statements brought together in the present publication. The only question is, whether that great event, as the author likewise asserts, is proved by *physical evidence*, to have been *recent*, *transient*, and *simultaneous*; and upon these points, we must be permitted to say, that the facts appear to us to afford but imperfect evidence as

to the date, and still less as to the duration, * of the submersion. We shall, however, confine ourselves at present to the most important of these propositions, and consider simply, whether the proofs of *simultaneous submersion* are such, and so exclusive, as would satisfy, upon a similar question in any other department of natural philosophy, any candid and intelligent inquirer, unacquainted with other testimony. For to speak of the support to the Sacred narrative afforded by extrinsic inquiry, *if the narrative itself be made to form a part of the evidence*, is a mode of reasoning that appears to us to be altogether inadmissible.

We are aware that, in the present case, it is by no means necessary to account for the phenomena under consideration; and that an universal inundation of the globe, under any form, whether simultaneous or successive, is so remote from any thing like experience, and so vast in relation to our limited conceptions, that our reasoning in regard to it must, after all, be extremely unsatisfactory. But where, of two modes of effecting the same event, one involves great difficulty, from which the other is free, that surely is to be considered as physically the more probable which is not so encumbered, unless the proof to the contrary be strictly and *exclusively* decisive. Now, the hypothesis of simultaneous universality is obviously exposed to the trite, but most substantial objection, that it involves the necessity, not only of providing such a vast body of water, as no merely physical agent that we know of can supply, but of removing it after it has been so provided. And the proofs of simultaneousness, as a matter of *fact*, are certainly not of the exclusive character required.

If the identity of the present and the antediluvian continents were fully established, it would go far to exclude the hypothesis which explains the submersion of the highest sum-

* The very existence of the diluvian *Gravel* in such immense quantities, is difficult to reconcile with the supposition of a *transient*, and especially a *tranquil* submersion. Even if it were supposed to have been already prepared in bays of the sea, its removal to distant heights seems necessarily to imply a very violent action. But the cases already mentioned, of its plain derivation from adjacent, though distant eminences, and of its consequent *formation* during the time of their being under water, seem quite irreconcilable with the notion of a short or transitory visitation—since no little time and motion would plainly be required to wear down fragments of quartz, granite, and other hard rocks, into smooth and rounded pebbles.

mits by the sinking of the land; since it is not probable (though not absolutely impossible), that if the land had sunk beneath the sea, it would have risen again to its former position; and this identity would sufficiently refute the opinion entertained by Cuvier, Deluc, and other eminent naturalists, that the antediluvian ocean changed places with the land. But there are still other forms of successive inundation, which do not seem to have entered into the author's view, and which are not physically excluded by any of his arguments. A great convulsion, for example, acting upon the waters of the globe, may have produced, by a wave, if the term be applicable to so vast a commotion, or a succession of waves, that general destruction, by which the deluge, as a geological event, was characterized. *How* such a convulsion might have been immediately effected, whether by volcanic agency, or in what other manner, is immaterial to the question, if the hypothesis be sufficient to account for the phenomena, and be not excluded by other considerations. Nor do the remaining steps of the arguments above enumerated, imply the necessity of simultaneous universality. Diluvial gravel would have equally arisen from the *successive* inundation of large portions of the earth. The similarity of mountains and valleys in all quarters of the globe, would likewise equally result from any such extensive action of water; the materials acted upon being every where the same; and if the phenomena connected with organic remains are attentively considered, they certainly furnish no exclusive proof upon this question. The destruction of animals would be the necessary result of universal and sudden inundation in whatever form; and if the remains of the same extinct species were found in every quarter of the globe, which has not yet been shown,—though this would indicate a very extraordinary state of the antediluvian population,—it would not prove that the destruction of these species was simultaneous. It would only follow, in strict reasoning, either that these remains were of animals, which had *lived* in every quarter of the globe; or, if confined to one region, that they were transported by the deluge from thence to all the rest. In the former case, the universal occurrence of the same remains would be no more a proof of simultaneous inundation, than the universal occurrence of diluvial gravel; both would be the natural effect of inundations, acting upon the same materials, but clearly neither in itself a demonstration of universal coincidence as to time. If, on the other hand, the fossil remains of the same extinct species be found universally,—*without* proof that the animals had actually *inhabited* every quarter of the globe; it would follow,

that the deluge must have originated in the region where they had lived;—and since the fossil elephant, rhinoceros, hyæna, &c. appear to have lived in Europe, then the deluge must have originated in Europe, which we do not imagine will be contended for.

It has been stated, in refutation of the theory * which explains the deluge by the approach of a comet, and the objection may be applied to any rapid form of inundation, that a flood so caused 'must have left evidence of its action somewhere in 'the wreck of lower strata carried upwards, and lodged in the 'hollows and clefts of higher ranges,' whereas the contrary is the fact. The argument is ingenious; and would have considerable force if it could be shown, without exception, that no fragments of rocks of lower situations occur upon the surface in more elevated tracks: but in the first place, we are not aware that this negative proposition has been universally established,—it is certain at least, that the remains of animals (as of the horse, &c. in the Himalaya mountains, according to Mr Buckland's statement) are sometimes found in regions much higher than those which they can be supposed to have inhabited. And secondly, the traces of descending action ought in every case to be the most conspicuous, for the operation of the retreating fluid would, in many cases, efface the marks of its rise.

The truth is, that notwithstanding the talents that have been employed upon this department of natural history, we have not at present sufficient data from which to reason with safety, upon any general question touching the comparison of the antediluvian population, with the actual inhabitants of the globe. The partial extinction of species,—the mixture in certain diluvial accumulations, of the remains of extinct with those of existing animals, †—the change of climate in high northern latitudes; or—if no such change have taken place—in the economy of the races that once inhabited those regions, are a few only of the obscurities which time and observation have to remove.

* Quarterly Review, No. 57, September, 1823. p. 161.

† There are some circumstances indicating tranquillity of deposition, and long abode of the sea upon the surface in certain places, the combination of which, with so many proofs of violent and more transitory action, it is not easy to explain. Thus, in Italy and Siberia, the bones of elephants, &c., abound along the banks of rivers, where they do not seem to have been disturbed. And it is asserted that oyster-shells have been found attached to the humerus of an elephant on the banks of the Arno; but as the specimen in question is said to be no longer in existence, this last point demands inquiry. See *Fortis Mem. pour l'Histoire Naturelle de l'Italie.* pp. 284, 298.

Mr Buckland has abstained from discussing any of the details of the Mosaic narrative of the deluge; and in this respect we shall willingly follow his example. But there is one point, which has an important bearing upon the question we have just considered, and upon which the opposition between the history and the inferences which his work goes to establish, is so obvious, that it must occur to every reader,—we mean *the extinction* of certain species of animals by the deluge:—the narrative expressly stating, that all the animals, of every kind, which existed at the time of that event, were preserved; while it is asserted by zoologists, and one of the most striking novelties of Mr Buckland's volume, is the confirmation of this fact, that certain species were totally extinguished by the inundation. The cave of Kirkdale alone contained at least four such animals; and a great part of the argument of the volume rests mainly upon the fact of their extinction. In whatever way this opposition be regarded, it is deserving of serious attention; since, if the text be interpreted literally, the discrepancy is obvious and decisive; and if, on the other hand, such latitude of interpretation be allowable as will reconcile this difference, we can see no reason why the same liberty should not be extended to the entire narrative; and in that case, there will be no difficulty, from supposed variance with the Scripture, as to the admissibility of successive inundations.

We are aware, that it has been attempted to distinguish between the universality of *the terms*, and of the *sense* of the expressions, employed on this occasion by the historian, and that the words in question are asserted to indicate, not *all*, but to a certain proportion of the antediluvian animals; but after the most attentive consideration of the text, we confess that we cannot perceive any thing that should render the wider interpretation more allowable, in one of the cases we have mentioned, than in the other.

But, to conclude an article which has trespassed much longer on the attention of our readers than we intended, we shall only farther observe, that the renewed discussion of this subject will not have been unavailing, if, by showing the difficulties of the question, it tends to assuage the bitterness, which has sometimes mingled itself with inquiry upon the physical confirmation of the Scriptures. Since so much uncertainty, and on so many points, is still connected with the great event which forms the subject of the present volume; since we have seen also, that discussions of this nature have led so often to the violation of kind and charitable feeling,—it may deserve the consideration of those who wish well to the cause of Revelation, and to the progress of Science, whether it were not better to leave for a

time a field so often traversed with so little success; assuring ourselves, that the ultimate effect of the advancement of knowledge, in all its departments, must be the establishment of Religious, no less than of Scientific truth.

ART. XI. *Memoirs of the Baron de Kolli, relative to his Secret Mission in 1810, for liberating Ferdinand VII. King of Spain, from Captivity at Valençay. Written by Himself. To which are added, Memoirs of the Queen of Etnia. Written by Her-ell.* pp. 340. London, 1823.

THE downfall of Napoleon, and the final subversion of a system which overwhelmed so many rights and pretensions, and repressed, by its terrors, the murmurs of those it aggrieved, — was likely to be followed by a torrent of abusive publications: and every one, we believe, expected, that, as soon as it was safe and profitable to bring to light the crimes of the departed tyranny, the press would overflow with the memoirs and testimonies of those who had been its victims. To the surprise of all the world, however, and the signal mortification of Legitimacy, nothing of this actually happened. The abuse of the Emperor was far less after his abdication than it had ever been during his reign; and we believe we state the truth but feebly and inadequately when we say, that all that has since been disclosed of his conduct and character, has tended, not only to raise the general opinion of his extraordinary talents, but to mitigate the severity of the judgments which had sometimes been passed on his moral defects. Till the period of his death, indeed, there were no publications of any note, in which his merits or demerits were treated of. Since that event, there have been many in which he is warmly eulogized; and none, till very lately, in which his conduct has been seriously impugned. There were circumstances, indeed, in the avowed policy and pretensions, as well as in the personal character of the restored sovereigns, which probably made their more judicious friends averse to provoke comparisons, and shut their mouths on the most questionable and unpopular of his proceedings. But what deterred the weaker courage of Subjects, only inflamed, it would seem, the loyal zeal of the Monarchs themselves; and the living Bourbons, determined, if possible, to divide the sympathies of the world with the dead Emperor, have endeavoured to effect a diversion in favour of Legitimacy, by producing various volumes of their own inditing, concerning their sufferings and exploits! We have already given our readers, in a preceding article, a

pretty full account of the most remarkable of these performances, and have only now to say, that in the present low state of the Ultra press, we imagine the Baron de Kolli must be regarded as a very important auxiliary. His story, to be sure, relates to rather antiquated matters;—but he was employed in behalf of the most legitimate of all the legitimates; and he was employed by the English Government, when it was far more legitimate than it is supposed to be at this moment.

The Baron was sent by our Government, in 1810, to endeavour to effect the deliverance of the present King of Spain from the Castle or Palace of Valençay, to which he had been sent by Napoleon, after his abdication in favour of Joseph. Of the importance of this mission, different opinions will probably be entertained; but as to the ability with which it was planned, and the judicious selection of the person to whom it was intrusted, no doubts can possibly remain, after perusing the revelations of the Baron de Kolli, in the volume now before us. Our national pride has sometimes been mortified, and sometimes soothed, by the contempt which is expressed all over the Continent, for our talents for intrigue—our skill, in other words, in deception and imposture, in trick and successful disguise. This mission, accordingly, was not committed to the clumsy hands of an Englishman,—and so far all was well; but we fear that English feelings predominated too much in the choice; for, except in honesty of intention, and disregard of personal hazard—qualities which might have been found at home—we really do not think that a more awkward intriguer, a more bungling manager of a plot, could well have been discovered among the British-born subjects of the crown.

There was, to be sure, the most formidable apparatus for concealment and disguise—‘ seals and ciphers of Bonaparte’s Secretaries of State, French passports, and *feuilles du route*, orders of the Ministers of War and of the Marine, &c. &c., all procured by the English ministry, from the best sources.’ We cannot help feeling an awkward sort of shame at this barefaced disclosure of the direct agency of a proud Government, in such a low scene of forgery and falsehood; and if there are occasions—which may, after all, be doubted—which render the use of such things indispensable, we must be permitted to doubt, whether the deliverance of Ferdinand was ever worth such a sacrifice on the part of this country. But, however that may be, the success of the plot manifestly depended on the utmost caution, circumspection, and secrecy on the part of the agent; and a very short abstract of his proceedings, will show how eminently the Baron de Kolli was deficient in all these qualities. In the *first* place, he

seems to have set out on his journey, without having taken the least pains to ascertain whether the Royal captive was at all inclined to cooperate in the scheme of his removal—a matter exceedingly doubtful up to this hour—he being at that time very agreeably occupied, we believe, in embroidering a petticoat for the Virgin Mary, and in other respects so lavishly supplied by Napoleon with all sorts of luxuries and indulgences, as to make it very unlikely that he would have gone upon the perilous and Quixotic undertakings, to which we seem to have invited him. In the *second* place, the Baron's original passports were so extremely defective, that they described a person of a different stature and complexion, and exposed him at every step to detention and detection. *3dly*, While waiting at Antwerp for his English instructions, he forms a casual acquaintance with a young man there—and, without any previous knowledge whatever of his character, or any kind of recommendation, proceeds, on the faith of his 'open and expressive countenance,' to admit him to his confidence, appoints him his secretary, and associates him at once in all the trusts and hazards of his delicate expedition. *4th*, On the coast of Quiberon, he falls in with another Baron, like himself an *intrigant* by profession, and then in the pay of the English, and, as it turned out, also of the French Government; and though he suspected, from the first, that this person was playing a double part, and sought his confidence only in order to betray him, he gives him so much of his talk and society, as to enable him to put the French police on their guard, and ultimately to ensure the miscarriage of his hopeful undertaking. *5th*, When he gets to the neighbourhood of Valençay, he takes no steps whatever to sound the dispositions of the prisoner as to the plan of an escape, or to consult his pleasure or ability as to the manner of carrying it into effect—but, settling with himself that he would make the Prince gallop away on a post-horse at midnight, he exhausts the whole resources of his genius in preparing a decoy for his pursuers, by sending off an empty chaise in an opposite direction! *6th*, He then admits into his confidence another entire stranger—without even the apology this time of liking his appearance,—but merely because he was, or said he had been engaged in the Royalist insurrection of La Vendée. In this promising position of his affairs, his last confident opens the door one morning to a detachment of police officers,—to whom he immediately confesses the nature of his mission, and is forthwith committed to the Donjon of Vincennes, while his papers are transmitted for the inspection of the higher authorities.

There is something so absurd and almost incredibly bungling

in the account that is here given of this rash and abortive undertaking, that, on first glancing at it, we could scarcely help suspecting that the whole publication was a dull and impudent fabrication, for the purpose of trying what lamentable trash would be swallowed by the English public under the name of Secrets of State, and of ridiculing, by this excessive caricature, the known *gaucherie* of our cabinet in all sorts of Continental interference. The singular minuteness, however, of the details, and especially the fact of the work having now been in the hands of the public for several months, without any contradiction on the part of the many distinguished persons who are referred to in the course of it, have nearly satisfied us of its authenticity; and induced us, in that view, to give some account of it to our readers—both as a singular illustration of Oxenstiern's memorable reflection, '*Quam parva sapientiâ regitur mundus*;' and as containing some curious specimens of the audacious falsehoods that were announced, and at due season avowed, in the department of the Police under Napoleon,—as well as of the extraordinary vigilance and inflexible rigour with which it was administered.

The Baron does not favour us with any account of his family or early history. All he says is, that 'he had been previously employed in secret missions in France, Germany, and Italy;' and that he had good recommendations to persons of the highest rank and station in Great Britain. He appears indeed to be a person of some consideration (though we find he is only qualified as 'the Sieur de Kolli' in a rescript of the present French King); for Lord Wellesley presents him with a sword of honour—and instead of being paid in base ingots and bank bills, he is presented with various lots of Diamonds to the value of 200,000 francs and upwards. He is detained some time at Antwerp, waiting for a passage to England—and it is in this interval that he picks up his friend M. Albert de St B——, whose 'mild and open countenance' at once seduces this veteran intriguer into an entire reliance on his fidelity and prudence—and he brings him with him to England, through many perils, as his secretary. There he is presented to the Duke of Kent and the Marquis of Wellesley, to whom he forthwith introduces his secretary;—and then the plot for the liberation of Ferdinand is concocted with the noble Marquis and Admiral Cockburn—the parties all meeting very secretly in a house belonging to the Admiral, after nightfall—and repairing separately to the rendezvous, the Marquis and Admiral in borrowed carriages, and without any of their usual attendants! We really were not aware that there was ever so much mystery practised in England. But the beauty of it is, that all these most secret proceedings

are regularly reported to the police at Paris—the agents of which astonish the Baron on his apprehension, with a minute account of all his proceedings, as well in London as elsewhere. We fear the young gentleman with the mild and open countenance must be responsible for these disclosures—as the reader will by and by, we suspect, find good reason to believe. This trusty secretary, however, remains behind in London; and, at last bring down to Plymouth the forged papers and other credentials, consisting of a letter from Lord Wellesley to the Baron himself, and two letters, one in Latin and one in French, under the hand of our late venerable monarch George III., to Ferdinand at Valençay—all which are given at full length in the work now before us. At last they embark about the end of February, having previously taken on board, for the delight and recreation of the expected Royal visitor, a great quantity of plate and fine wines, ‘ chests filled with linen and clothes, an excellent selection of books! astronomical instruments and maps! ’ conserved plate and ornaments for divine service, and a Catholic ‘ Priest to officiate,’ during the proposed voyage to Spain.

They soon get over to Quiberon Bay, where they fall in with another adventurous Baron, calling himself de Ferriët, also, at that time, in the pay of the English Government, who is very eager to engage our hero in a project for assassinating Napoleon, or raising a new insurrection in La Vendée. The Baron, however, fights rather shy of his brother intriguer; and openly expresses to the Admiral his suspicions of his fidelity. However, he talks enough before him to put his future proceedings completely in his power,—and de Ferriët is afterwards landed on the coast, without any attempt to watch or restrain him. We learn, in a note, that he certainly did give information to the French police of de Kolli’s destination—that he was afterwards engaged, in 1814, in a plot to arrest the Duc de Berri,—and ultimately shut up for some time in the Tower of London under a charge of high treason. The Baron and his amiable secretary, however, are at last happily landed in the night, and begin their progress towards Valençay under no very favourable auspices. The faithful Albert drops behind in the darkness of their march, and the valorous Baron finds himself alone. He calls loudly on his companion, but is answered only by the barking of distant dogs. He then turns back to look for him; and at last falls over him in the bottom of a ditch! He pours a glass of Madeira (with a comfortable flask of which he seems to have been provided) down his throat; and, finding his pulse quite strong and natural, cannot help concluding that ‘ his indisposition proceeded rather from *moral* than physical causes ’!

However, he is at last roused and brought to his senses; when he begs to be allowed to rest for a few hours, and entreats the Baron to go on without him. 'I made new efforts,' says the Baron, 'to induce him to follow me. I appealed to his sense of honour; to his views of interest. But all was in vain!' A desperado of an adventurer, on whose conduct the fate of nations and the liberty of princes depended, might have made short work with such a craven associate. But our Baron acts in the spirit of a different system; and, after earnestly exhorting this stout-hearted and open-countenanced Royalist to die rather than betray the secret of the state and the King's fate,—and, at the same time, not very consistently, assuring his readers that he had put no material secrets in his power,—he says, with the most marvellous generosity we ever happened to hear of, 'Here is a packet which contains a thousand pounds worth of diamonds: should we never meet again, they are yours! If not, we shall settle the account when we meet on such a day at Paris, or on some other at Vincennes!'—and so saying, he leaves the slender youth to his repose, and travels on all day as fast as his post-horses can carry him. When lounging through an inn in the evening, while his carriage is getting ready, he sees the faithful Albert, who, in spite of his exhaustion, had got on before him, warming himself comfortably at a fire,—and again prevails on him to rejoin him; but is very soon compelled to leave him a second time behind. They do meet again, however, at Paris; and Albert, who is still acting as his secretary, is allowed to go unmolested when he is taken up. Yet M. de Kolli, with a romantic sort of generosity, still professes to believe that he had not betrayed him. He is so exceedingly sentimental, indeed, on the score of this young gentleman, that it is not easy to tell what he would be at. These are his last words with regard to him.

'He even endeavoured to raise my suspicions of Albert. My opinion as to him was already settled. M. de St B * * * had not betrayed the cause of Ferdinand. Why happened it, notwithstanding, that he forfeited my esteem? The reader will excuse my silence; Albert had committed more than one fault, and the police furnished me with ocular demonstration of it; but, like him, I will not give my enemies the pleasure of smiling, at learning that the defenders of a just cause are not always actuated by the interests of virtue alone. The name of Albert will not appear again in these Memoirs; can he make himself equally forgotten elsewhere?' p. 95.

But we are anticipating a little on the course of this extraordinary narrative,—though there is not a great deal more of the plot to be unravelled. After taking a view of the outside of Valençay, and doing all he could to excite suspicion and notice,

by stationing saddle-horses at one place, and parading an empty carriage, with close blinds and attending footmen, in another—he ‘enters into engagements,’ as he terms it, with the *Sieur Richard*, of whom he knew nothing but that he talked zealously in favour of the Bourbons, and said he had been wounded in the Vendean war. He did not indeed tell him exactly what he had come for; but let him understand that he was engaged in some Bourbon plot,—and delivered an oration to him, which, however, had only the effect of making him look pale, upon the delight of ‘dying for a captive Sovereign,’—and ‘sharing the fate of the faithful, whose ghosts are still trembling on the shores of Quiberon, or the desarts of Grenoble.’ At last, on the morning of the 24th of March, he gives him 2700 francs to purchase things for their journey; and soon after, the faithful *Sieur* opens the door to eleven armed officers of the police, who immediately take them both into custody! The Baron is examined first by *M. Desmarest*, and then by *Touché*, to both of whom he at once avows his mission, and admits the fabrication of his papers,—and both give him, in return, ‘a most accurate account of my transactions in London, my arrival at Quiberon, and of my slightest movements in France up to the moment of my arrest!’ They then endeavour to persuade him still to go, under their superintendence, with his credentials to Ferdinand, and to urge him to attempt his escape, as they wished to know whether he really had any desire to change his place of residence. If it turned out that he was really so disposed, they added that little obstacle could be offered to his coming out; and that, whatever afterwards became of him, the Baron might then turn to his own purposes the funds which had been provided for the occasion. The Baron rejects this insidious proposal with disdain; on which the agents of the police rejoin, with admirable composure, ‘Then we will send one to him not quite so mad as you, nor quite so proud;’—and the worthy Baron is forthwith immured, *au secret*, in the Donjon of Vincennes. Before we presume, however, to tell any of the secrets of that prison-house, in which the unhappy liberator of Ferdinand sojourned for four long years, we must reveal a little of the obliquities of the Duke of Otranto, as the Baron was afterwards enabled to establish them.

The Baron was arrested at Vincennes on the 24th of March, and was never afterwards in the vicinity of Valençay. A letter, however, from the commandant of that fortress, dated on the 6th of April, and published in the *Moniteur* soon after, announced to the Minister of Police that Ferdinand had just apprised him that an emissary of the English Government had

introduced himself, and, under the false notion that he was forcibly detained, had proposed to assist him to escape—that the commandant had immediately arrested the emissary, who declared himself to be the Baron de Kolli, and who, with the numerous papers found on his person, was accordingly transmitted to the Minister of the Police—and another pretended letter from Ferdinand to the same effect was subjoined. There is falsehood enough in this to disgust and offend all honest minds—but the documents and disclosures now made public by the Baron tend, if not disavowed and contradicted, to cover his Grace of Otranto with still deeper disgrace. The fact it seems is, that after the Baron's arrest, the Sieur Richard, his treacherous confidant, was sent by the Police, with the letters and credentials which had been taken from his master, to seek admission to Ferdinand at Valençay, and to urge him to attempt his escape—but that, not being acquainted with the person of the King, he addressed himself by mistake, and in a very awkward manner, to the Infanto his uncle, who, suspecting some dishonesty, immediately informed the Commandant—and that the letters which have been already alluded to were then concocted between him and the Minister of Police, and given to the world as proofs of Ferdinand's satisfaction with his condition, and the malignant restlessness of the English. The documents produced by the Baron, however, go still farther than this. The Sieur Richard, in an affidavit, declares, that he went to Valençay in consequence of an order signed by the Duke of Otranto, and that his secret instructions from the Duke were, 'to favour the escape of the King, and to bring him as a prisoner to the Donjon of Vincennes'—that 'he secreted and has preserved these instructions, and has now delivered them to the Baron de Kolli.' The instructions themselves, bearing to be signed by the Duke of Otranto, are accordingly printed by the Baron in this volume; and they certainly contain the following very extraordinary passages. After directing him how to gain admittance to Ferdinand, it is said,

"After that, he must explain the means he possesses of facilitating his escape, and leading him in safety to the coast of Normandy, where vessels will be in waiting, &c. &c. He must insist upon the prince being alone, or at least to have not more than one attendant. In either case, the governor will provide him with two or three trusty persons, who will be supposed to be agents of Albert, or gained over by him.

"As to the method of quitting Valençay, he must prevail upon the prince to withdraw himself from the observation of his guards; if he will not consent to try it, Albert will propose to him to carry him off by means of forged orders, upon which the governor will de-

live him to the person intrusted with the execution. It is perfectly understood that the Sieur Albert is not to propose or to use this last plan, but in the event of the Prince refusing, or not venturing to risk the first.

“ The Sieur Albert will bring the Prince straight to Vincennes, persuading him that he is proceeding to the coast of Normandy, a little way round.

“ In the event of the Prince refusing to fly, in order to repair to the coast, Albert will at least try to get from him an answer to the letter delivered to him.

“ As to every other point, the Sieur Albert will follow the directions which the governor is requested to give him ; for that purpose he will settle the mode of communicating with M. de Berthemey, so as that no one in the chateau shall have any suspicion of it.” pp. 247, 248.

The most extraordinary paper of all, however, is the cool and deliberate avowal of all this, made by this same Duke of Otranto, in answer to a categorical requisition which the Baron addressed to him after the first restoration of the Bourbons in 1814, and which he has now printed in the following terms.

“ The Duke of Otranto attests and declares, that the Baron de Kolli, who was intrusted with a mission from the British government to his Catholic majesty, King Ferdinand VII., did everything to execute it, which honour, fidelity, and zeal could have inspired ; that his arrest, which took place on the 24th of March 1810, at a house in the park of Vincennes, prevented him from repairing to Valençay ; that a person named Richard was sent there under his name ; that all his effects, money, and diamonds, were deposited at the office of general of police, as being the private property of Baron de Kolli. The duke of Otranto further certifies, that all that has been printed respecting the Baron and his mission is a *fable*, devised and purposely substituted for the true report which was made, and in which the duke of Otranto proposed, 1. That the affair should not be made public ; 2. That the Baron de Kolli should be sent back to the Marquis Wellesley, to whom the duke wished to show a mark of respect and confidence.

(Signed) “ THE DUKE OF OTRANTO ! ”

“ Paris, May 20, 1814.”

We do not feel particularly proud of the figure which our Ministers and Princes of the Blood make in this publication. But we should blush indeed for the honour of the nation, if any detail so humiliating as this could really be extracted from the records of our Foreign, or even our Alien Office.

The rest of the Baron's book consists chiefly of the story of his imprisonment at Vincennes, and of his attempts to escape. These last remind us of Baron Trenck ; and are scarcely less interesting. Like him, he mines through the massive walls of his cell, by the persevering labour of six long months, em-

playing very nearly the same devices to get rid of the rubbish and avoid detection—like him, too, he gets clear into the open court, but is caught on the outworks, and remanded, of course, to a more safe and rigorous captivity. He was worse off than Trenck, however, in having to pluck out by the roots a huge beard of ten months growth the night before he attempted his escape, and in having to elude the vigilance of two watch-dogs in the court-yard, with whom he had sagaciously established a cordial intimacy some weeks before, by feeding them regularly with the fragments of his dinner. His imprisonment seems indeed to have been abundantly severe; being entirely secluded from the visits of his friends and children, or even any society with his fellow-prisoners, and denied the use of writing materials, or the amusement of books. We cannot say, however, that he submitted to those privations with meekness. On one occasion, when some of the turnkeys are approaching to search him, he stabs himself in several places with a pair of scissors; and on another, when a brutal attendant was long in coming with his meagre supply of food, he fells him to the ground with a billet from the fire—his nerves, however, having been disordered just before this last piece of violence by a frightful dream, in which this same keeper attempted to bite off his hand, with teeth like rolls of paper containing confectioners' mottoes! He is also extremely active in contriving the means of secret intercourse with his fellow captives, and is repeatedly detected both in this and in practising on the compassion or cupidity of his attendants—so that it is but fair to say, that he brought some part of the rigour with which he was treated on his own head.

Upon the approach of the Allies to Vincennes in 1814, an order is given by the Duke of Rovigo, then Minister of the Police, to remove the prisoners to Saumur, in which the Baron assures us, that he read with his own eyes, the following significant and ominous hint. 'As the person named Kolli is one of the most dangerous of the state prisoners, *I should be better pleased to hear of his death than his escape!*' We did not think it usual to put such perilous intimations in writing. The Baron, however, is safely conveyed to Saumur; where, after running infinite risks from the frenzy of the mob, and the desperation of his keepers, he is at last liberated in consequence of the entry of the Allies into Paris in March 1814; and immediately bestirs himself to recover the evidence of the tricks that had been played upon him by the Police in 1810, in the way we have already explained. He is less successful, however, in his attempts to recover the property which had been seized at the time of his arrest—especially the diamonds of

which we have already spoken. The restored King of France, upon considering a memorial from him, having been pleased merely to order that the sum of 15,000 francs taken from him in money should be restored, with his horse and sword of honour, but 'that the diamonds, *having been given by a government then at war with France*, must remain confiscated.' The Baron is very angry at this decision; of which he has ever since been endeavouring to procure a reversal, but in vain. Among other contrivances for effecting that end, he tells us, that he lately sent a copy of his present work, in manuscript, to the French ministers, with a letter expressing his regret at being obliged to state such a fact in it—but, getting no satisfaction, he now gives it to the world. He distinctly accuses the Minister of Police of having embezzled his diamonds—and complains that the Duke of Rovigo still retains his sword of honour, though ordered by the King to restore it.

Having settled these matters in the best way he could, and regained possession of his original credentials from the English Government, the magnanimous Baron determines, after all, to deliver the letters of our venerable Sovereign, according to his original undertaking. He therefore gets a magnificent portfolio prepared, 'studded with golden fleurs-de-lis, and ornamented with the Spanish and English colours, with these words richly embroidered—George III., King of Great Britain, to Ferdinand VII., King of Spain and the Indies, Prisoner at Valençay;' and, with the precious documents in this 'brilliant envelope,' as he fondly terms it, he has at last the happiness of being presented before the restored Monarch at Madrid, in February 1815, and is received with such kindness as 'fully indemnified him, he assures us, for his long sufferings at Vincennes.'

During the hundred days, the Baron was again engaged in support of Legitimacy—though in a way more unexceptionable, we think, than in 1810. Anxious to show, that 'the unjust detention of his diamonds had in no degree weakened his devotion to the house of Bourbon,' he leaves his retirement in Spain, and accepts a commission in a corps of volunteers, chiefly emigrants, which Ferdinand authorizes to be raised on his frontier, at the request of the Duchesse D'Angoulesme. His original bad luck, however, pursues him—his corps is defeated, and he, being made prisoner along with a number of emigrants, is in danger of being shot as a rebel along with them. He escapes this fate, however, on the representation of a Spanish general; and, being finally liberated by the result of the battle of Waterloo, resigns his military commissions, and retires to the tranquillity of a private station.

‘The Memoirs of the Queen of Etruria’ have nothing to do with the adventures of M. de Kolli; and belong indeed to that higher department of literature to which we have already endeavoured to do homage in our article on Royal Authors, and especially of the house of Bourbon. The object of the present performance, which is by no means the worst of these family pieces, was something more substantial than mere literary glory—it having been prepared, as we understand, for the purpose of inducing the Allied Powers, in their first Congress at Vienna in 1814, to make some compensation to its illustrious author for the territories of which, by the new order of things, she had been despoiled. It contains little that can now be of any interest, being chiefly occupied with accounts of her different journies and bad accommodation in the various residences that were assigned her. In the vast importance that is ascribed to matters of personal comfort, it bears a striking affinity to the pathetic work of the present Sovereign of France, of which we have spoken in another article. Even on her first arrival at Florence in 1801, she is wonderfully distressed to find the palace very ill furnished, and is obliged to lay the nobility under contribution for ‘plate, chandeliers, and other articles equally indispensable.’ Even with their aid, however, she was actually reduced to the necessity of occasionally eating off China—an extremity which is thus touchingly recorded. ‘This was the first time that a daughter of the King of Spain, accustomed to be served in Gold and Silver, saw herself obliged to eat off Porcelain’! In 1808, she is ordered to join her father at Fontainebleau, where she is much mortified at finding that, ‘while her parents were settled in the palace—were allowed the whole service of the Imperial Court, and had *all the gentlemen, ladies, and guards at their disposal*—she had only a paltry little apartment, scarcely large enough for her family to sleep in,’ &c. &c.; and so it goes on, from worse to worse, till she is at last shut up in a convent at Rome, with an allowance of no more than 2500 francs per month for her maintenance—which Murat, in the last days of his reign, afterwards enlarged to no less than 33,000. We cannot afford, however, to dwell any longer on the wrongs of this Princess—which even the Congress of Legitimates do not seem to have been very eager to redress:—the only compensation they are understood to have made her, being a temporary right to Lucca, and a declaration that her son should be entitled to the succession of his father’s hereditary states of Parma, Placentia and Guastalla, after the death of Napoleon’s Maria Louisa, to whom they had been previously assigned.

ART. XII. *Observations on the Judges of the Court of Chancery, and the Practice and Delays complained of in that Court.* 8vo. London. Murray. 1823.

‘FROM this method of interpreting the Laws by the reason of them, arises what we call *Equity*; which is thus defined by Grotius, “the correction of that, wherein the law, by reason of its universality, is deficient.” For since, in laws, all cases cannot be foreseen or expressed, it is necessary that, when the general decrees of the law come to be applied to particular cases, there should be somewhere a power vested of defining those circumstances, which (had they been foreseen) the legislator himself would have expressed. And these are the cases, which, according to Grotius, *Lex non exacte definit, sed arbitrio boni viri permittit.*’

Such is the account given by Mr Judge Blackstone of the origin and business of the Court of Chancery in this country. And of a nature somewhat startling and extraordinary it is—when we recollect, that the most obvious and familiar notion of ‘well-ordered jurisprudence implies that every thing is determined, fixed, and known before-hand; and when, moreover, we bear in mind what large and unmeasured commendation is habitually bestowed upon the wisdom of our ancestors, for having framed and handed down to us a certain rule of living, undisturbed by arbitrary discretion, and directed only by (what Lord Coke has been pleased to term) ‘the golden metwand of the law.’ Nor will the first feeling of surprise and uneasiness, to which this statement is calculated to give rise, receive any alleviation from the reflection, that the elevated and most powerful individual, in whom the trust is from time to time reposed, is, for the most part, the very centre and nucleus of the predominant faction in the state, and liable to all the predilections and dislikes which influence the possessors of Power:—That, whereas the other judges of the land are presumed (with whatever truth), from the first moment of their appointment, to be totally removed from the seductive influence of the Crown and the bias of party, this, the greatest of all the Judges, and the maker of the rest, is alone thwarted and traversed in his career by the hopes and fears, the jealousies and bickerings, the bustle and the distraction, of political controversy,—nay, that he is actually liable (we speak, of course, of the theory of the institution, without reference to any particular case) to the incalculable evil of removal, by the ordinary fluctuations of public opinion, or the varying and shifting of courtly caprice:—That, in the course of his judicial duty, he must incidentally come in contact with

those, who, in the most mitigated and liberal shape of civil warfare, must be considered as opponents, but who, if, in addition to a love of office, as connected with the gratification of ambition or the pursuit of fame, there should also be found a greedy appetite for its gross lucre and fat emoluments, would be converted, at once, into the most dreaded and detested of enemies:—That a Chancellor of England may sit in judgment upon the estates entire, and some of the dearest personal interests of the Russells, the Cavendishes, the Villierses the Grosvenors, the Whitbreads and the Sheridans, as well as of those who happen to be unknown, and are, therefore, as every litigant party ought to be, indifferent.

. We shall not, we are persuaded, be suspected of misrepresenting the elegant writer, from whom we have made the quotation, so much as to attribute to him the opinion, that the province of a Court of Equity *now*, is merely to provide a remedy for the inconvenient pressure of general, unbending rules, without any other criterion than the conscience of the Chancellor for the time being; or, in other words, (since that has been sometimes considered a sort of common measure of conscience), by the length of his foot. Our readers are perfectly aware that it is to be collected, from different parts of the work of the learned commentator, that the system, ostensibly, proceeds upon as scrupulous and rigorous an adherence to precedent and authority, as can be found in the Courts of Law themselves, not to mention the important statutory provisions that form part and parcel of it. We know that these things are studiously professed: but we also know of what materials professions are oftentimes made, and to what purposes they are applied. We are not quite sure that assertion heaped upon assertion contributes much, in every possible case, to strengthen conviction. How far the tendency has been, in latter times, to abridge or enlarge discretionary power in the decision of cases in the Court of Chancery, we shall briefly notice hereafter: But we must first say a word more on the difficulties which beset the Lord Chancellor for the time being, in the upright and disinterested discharge of his duty.

We confess, then, that we consider the power of this officer too absolute and uncontrolled for the satisfactory dispensation of justice. He can hardly be deemed to be within the reach of that opinion, which, more than all other things put together, operates as a restraint upon public men, and constitutes, in effect, since impeachments have ceased to be more than a dead letter in the constitution, their only responsibility. The Lord High Chancellor cannot but feel himself assured, before hand, of

countenance and support, independent of the merit of his conduct, and the wisdom and propriety of his decisions. In the one hand, he wields the loquacious profession of the Law, of which he is the head, with an almost uncontrolled authority. From the obsequious and time-serving,—from those, who are allured by the emoluments and honours, of which he has the exclusive patronage (and our readers may form some judgment how large a share of the whole body that description comprises, when they bear in mind that it is not yet an obsolete * aphorism,—that lawyers ought not to profess, even if they should, by chance, privately entertain, *any* political opinion), he is sure to receive, as he requires, a ready acquiescence and support. With the other hand, he leads after him, by the never-failing lure of interest, the less prominent, but not less busy and persevering body of the Clergy, who feel a natural yearning towards that source of patronage, which they regard, as befits pious men, with gratitude for favours received, and look up to with lively hope of benefits yet to come. Into the same scale must be thrown the whole weight of Political connexion,—the prompt and interested support of that prevalent party to which the Chancellor necessarily belongs, and of which he is, sometimes, the chief. Now, we do not mean to affirm, that this consciousness of external strength must, of necessity, lead to the gratification of indolence, or spleen, or self-will; because we know that a man *may* be an impartial judge in the case of an adversary or his own, and that he *may* be possessed of absolute and uncontrolled power, and fail to abuse it. But we do affirm, that it entirely removes the best security, which the public possesses, for a due and faithful discharge of duty,—a knowledge that character must depend, in its original formation, and, afterwards, for its maintenance and support, upon individual exertion alone. We do aver, without undertaking to prove what *must* be the result of the decision, that it is imposing upon any man's integrity too severe a trial, to set him to adjudicate upon a case where he has a leaning of favour, or hostility towards, either of the contending parties.

The continuance of Lord Eldon's dynasty, which has endured for nearly a quarter of a century, and has considerably exceeded the average length of the reigns of the Kings of England since the Conquest, has afforded an unlimited opportunity for the formation or perfection of a system. By the benefit of fortune, or his Lordship's good management, he has been re-

* The late Sir V. Gibbs is said to have strenuously recommended this prudent kind of dissimulation.

markedly exempt, during the whole of his career, from the interruption of rivalry and opposition. No schemes of improvement or reformation which he may have meditated, in the principles or practice of his court, have been cut short by the untoward usurpation of a successful antagonist. One single check only, resembling rather a vacation's repose than removal from office and power, has disturbed the even tenor of his way. Excepting Sir Samuel Romilly, in the formation or production of whom the noble and learned Lord assuredly had no share,—but who, if he had been brought forward into the service of his country, would have rendered unnecessary the instructions, the reports, the commissions, and the other laborious ceremonials which sufficiently demonstrate the necessity of the case, whatever may be thought of them as remedies,—he has been unmolested and undisturbed by any rival, in public opinion, for the situation which he has filled. How far his Lordship has availed himself of these advantages, let those who have heard his judgments decide;—let those judgments, as they are recorded, speak for him.

That his Lordship is a great and learned lawyer—that he possesses a most subtle and refining understanding, and unites, with an extraordinary degree of penetration and sagacity, a singular patience and circumspection in forming his decisions, will be admitted, we suppose, by all who have had an opportunity of observing him in the exercise of his judicial office. But it would be difficult, we conceive, on the other hand, to deny that he more frequently gives proof of caution than of boldness, of subtlety than of vigour in his reasonings—that in the determination of particular cases, he seems too often to exercise his ingenuity in raising up doubts and difficulties, rather than in clearing them away—and, above all, that he confines himself far too rigidly to the decision of the special matters that come before him, without aiming either at the establishment of general principles, and the improvement of the Science he professes, or at the correction of those vices in the constitution or administration of his court, of which he daily hears and sees too much to make it conceivable that he should be ignorant. Whoever, in short, may have been driven to toil in that laboratory, called Mr Vesey junior's Reports, comprised as it is within the very moderate compass of eighteen solid octaves, with various accessory records of a kindred character and spirit, must have looked, we think, in vain for that great and commanding talent and master mind of which the possession of the highest station, and that too for so great a length of time, creates, unavoidably, some expectation. The vast bulk of the

collection imposes indeed upon the mind ; and a distinct effort must be made in order to prevent a natural, perhaps, but too hasty conclusion, that, because much has been said, much therefore has been proved. Separating, however, merit from size in these miscellanies, we shall find, in the first place, a tortuous and mazy involution, parenthesis suffocated by parenthesis, a profuse, inelegant and cumbrous verbiage which afflicts the reader with a sense of obscurity, and a most painful image of labour at once interminable and unproductive. Meaning, in itself never redundant or excessive, struggling in vain through a heavy and oppressive load of qualifications, and limitations and restrictions, creeps into light, at length, in a shape and in dimensions little calculated to repay the wearisomeness of pursuit, from its first introduction, through its gradual attenuation and diminution, to its final extinction. We know of no instance, in short, in which so many and various eminent qualities, so unsparingly attributed to one single person, have been, in their fruits, so unproductive and disappointing as in the case now under consideration. Examples, we do not deny, might be selected in abundance, of a dissection of facts ingenious, skillful, subtle in the extreme, and (which is more to our present purpose) of a most cautious, balancing, and learned discussion of preceding authorities, implying a suspicion of their correctness, and casting a doubt alike over them and the decision which is about to be pronounced—But of a clear, unreserved, definite exhibition of general principles and of what the law is, the faithful mirror of Messrs Vesey & Co. holds up no portrait,—because the original does not exist. Now, this may be prudent, and safe, and right under the circumstances:—We do not deny it. All we say is, that it does not point out the Great Judge. It is not scientific ; ~~or~~ it betokens a vice in the system—and shows that Equity is not a Science.

To lay down 'general rules, or to establish a System in any branch of law or equity, is a matter of risk and difficulty, and cannot safely be undertaken but by persons of great knowledge, and of a great reach of intellect, ' looking before and after.' Those who are moderately gifted or stored, will do well not to adventure,—just as it is better to do nothing than to do mischief. The course for such persons is to avoid excursions, and to move within the most confined and narrowest limits which the execution of the immediate task before them can possibly allow. They must keep clear of general reasonings, and circumscribe the grounds of their decision to the particular circumstances of each particular case upon which they are called upon to adjudicate. The rights of the litigant parties, by such

means, may possibly, for any thing we know to the contrary, be properly disposed of; but such a procedure is not, in any larger sense of the word, and with a view to creating a scheme of jurisprudence, or providing a store of knowledge for those who are to come after, a judgment or decision at all. It is, by the supposition, applicable only when the very same state and combination of facts shall arise,—an event, we need not say, as improbable and little to be expected, as that two men shall be found so absolutely and identically alike, that, when sitting side by side, it is impossible to see any distinction. Lord Eldon's decisions, accordingly, will be of admirable weight and authority, when the Platonic year, in its revolution, shall have brought round not merely the same precise state of facts, but the very same plaintiff and defendant, the same learned gentlemen to contest and defend their mutual interests, and (to crown and complete all) the self-same Lord Chancellor to decide.

In times past, things were otherwise: But 'there were 'Giants in those days.' In the Reports, our professional readers are aware, Lord Coke invites the attention of the inquirer and (when he is concerned, we may safely add) learner, to adjudications which took place beyond the mere decision of the point in issue between the parties, in his peculiar and somewhat grotesque manner.—'Note, reader, that 'the following points were settled and resolved.'* Then follow, *seriatim*, quite as a matter of course, conclusions and corollaries of law to the number of half a dozen, and oftentimes more,—as the case may be distinctly and fearlessly laid down,—and, moreover, without one single parenthesis to pare them down and fritter them away to nothing. Where are the 'Resolutions' of the Earl of Eldon? In what part of those ample magazines of learning (bonding warehouses under double lock), to which allusion has before been made, will the painful and fainting student find any of *his* adjudications, which unequivocally enlarge, correct, or define the rules of equity in which he has been so long engaged? Why, his decisions are absolutely the exclusion of all conclusion. And as the facts, to which they are strictly confined, cannot exist again, either actually in specie, or so nearly the same but that acuteness and subtlety may be able to find distinctions, it follows, as of course, that an approximation is made towards the possession of that Discretion of which Power is naturally so much enamoured; and which those, who are prudently and wisely jealous of power, find it their interest, as much as possible, to restrain.

* The language of the Reports, *passim*.

We do not know, whether these considerations have contributed, in the smallest degree, to fix the attention of the public on the state of the Court of Chancery. Matters of a practical nature, much more cogent and touching than general reasonings, have probably had the greatest share in producing that effect. Patients, themselves smarting under their sufferings, and giving vent to their feelings directly, or through the medium of friends, obtrude themselves continually on our notice. Claimants of property of every description succeed to the complaints of their predecessors. Inheritances lose half their value by being bound with the chains of a suit. Terrors and ghosts of litigants, unlaid by adjudication (as Mr Burke once observed of undischarged accountants, disturbed, *unquieted* in the Court of Exchequer), haunt the houses of their children from generation to generation. * Judicial aphorisms, jests, which having lost, for centuries, the freshness of novelty, have therefore nothing to sustain them but the foundation of truth on which they rest, and the lamentations and complaints of recent sufferers, all lead alike to the same conclusion. We enter into none of the generalities, which are sufficiently familiar upon this subject; but it is obvious that justice delayed, and, by delay, encumbered with an increasing and overwhelming load of expense, may become, at length, hardly worth obtaining. We willingly leave the application of these remarks, and the decision, whether they have any truth in them, or whether they are the produce of mere fiction, to those whose misfortune it may have been personally to have experienced the wearisomeness and irritation of a long-protracted suit, for the continuance of which they can learn no story reason, and of which, nevertheless, they can find no

impossible that what came so frequently within the fire of each man's private reflection, should long remain without some more formal notice. Accordingly, Mr Taylor, now several years ago, brought forward a motion in the House of Commons upon the subject of the delay in the business of the Court of Chancery. To this gentleman, it is only justice to say, the public are deeply indebted for the meritorious exer-

* During the trial of a cause at Westminster, one of the counsel having expressed an intention of applying to the other side of the Hall for redress, Lord Kenyon, in his abrupt way, said to him;—'Get away with you, then, into the Court of Chancery;—*abi in malam rem!*' His Lordship, we understand, knew something of the Court.

tions he has so long made in attempting to procure redress for the grievances endured by the country. The ability, perseverance and industry, exhibited by him on these occasions, are above all praise. So fully, indeed, was the House of Commons itself impressed with the strength of his statements, and the necessity of inquiring into the existing evils,—or, as perhaps we ought now rather to say, so entirely did that House participate in the infatuation and delusion prevalent out of doors, that they actually agreed to Mr Taylor's motion, and voted for a Committee! Not but that we are bound to state, in justice to the general consistency of this body, that the majority had not then discovered how essential it was to the purposes of good government to deny (by their votes at least), the dilatoriness and vexations of Chancery proceedings, just as it once was to prove (by the same means, and to the entire satisfaction, doubtless, of the people of England), that every thing was praiseworthy in the conception, faultless in the execution, and harmless, if not beneficial in the effects, of the Walcheren expedition. But, however, the House did vote for a Committee of Inquiry; and then, as if sensible of having done wrong in acting conformably to the wishes of their constituents, they hastened to retrace their steps, and to undo what they had been doing. Accordingly, it was very early predicted by Sir Samuel Romilly, from the quality of persons industriously selected and thrust forward upon the occasion, in what manner their labours were sure to end. Into the Committee, nevertheless, they went; and, for a time, matters proceeded with a degree of unanimity perfectly marvellous. Every thing which tended to show the arrears of business in the Court of Chancery, was eagerly caught at and adopted; but any attempt to inquire into the *cause* of the arrears, was as promptly rejected: In other words, it was considered safe and wise to inquire into the fact of the existence of a disorder, about which there was no doubt, but superfluous and imprudent to ascertain the origin of it, with a view to provide a remedy! After this manifest proof of an irresistible propensity, on the part of the Committee, to humour and drollery, Mr Taylor found it hopeless to proceed with the business; and the matter was dropped. The subject has been since frequently revived by him, as our readers are aware, and with additional reasons, but with diminished effect, in proportion as the political part of the Chancellor's character fully expanded itself, and created, as might be expected, corresponding majorities.

In this state of things, Mr Williams, in the course of the last Session of Parliament, brought forward a motion of a similar nature,—for a Committee 'to inquire into the delay in the pro-

'ceedings in the Court of Chancery, and the Appellate Jurisdiction of the House of Lords, and of the causes of it.' Public opinion appeared to have undergone no change. No adequate remedy, it was quite certain, had been provided. The admitted necessity of adopting a palliative, of which an experiment had been made,—we allude to the appointment of a Vice-Chancellor,—served only to confirm the universally prevalent opinion of the existence of the evil. Upon the subject of that experiment, we must just observe in passing, that there has been much of (what it is difficult to consider otherwise than intentional) misconstruction. Nobody ever supposed,—it never was in any quarter surmised, that the appointment of the Vice-Chancellor was absolutely and entirely inoperative. No man in his senses could, or even did deny, but that all the business disposed of by the Vice-Chancellor, which, but for the existence of that officer, would not have been disposed of at all, was (provided his decisions were right and conclusive) a clear gain to the public. The question took a very different shape. The doubt, originally suggested as to the probable success of the measure, and the failure then anticipated (and by some was the subject considered in all its bearings with greater clearness and ability than by Mr Canning), proceeded upon a supposition abundantly realized by the fact, * that the business in the Deputy Court would lead to business in the principal, in the shape of appeal; and that the subjects, already wearied to exhaustion, by one Court of Chancery, were to be revived and refreshed by being dragged through another,—somewhat upon the principle of the hedge case in *Thessaly*. The circumstance, therefore, of this measure having been resorted to, and with the success which we have witnessed, seemed, before any farther changes were made, to lead most naturally to a preliminary question,—whether the delay really was the result merely of unavoidable and increasing pressure, or whether the whole, or a part at least, might not be referable to the wavering, the indecision, the dilatoriness and confusion, which had prevailed in the High Court of Chancery itself.

Common fame and accredited rumour, it has been said, are constitutional grounds for Parliamentary inquiry. This notion, however, it is obvious, must have grown into acceptance and credit, at a time when the House of Commons, mindful of one part of its duty, and faithful to the object of its institution,

* How nearly this was an accurate anticipation, may be judged from this,—that the Lord Chancellor now hears no cause originally, but the Vice-Chancellor hears them all.

exhibited, as we learn it ought to do, * ‘an openness approaching to facility to complaint.’ We may observe, in favour of such a course, that, after making allowance for the different species and degree of evidence on which they proceed, the theory (if, indeed, with the practice working before our eyes, it were worth while to cite the theory) is somewhat in conformity to what prevails in another, and that, too, the most admired and popular part of the Constitution. We allude to the course pursued by the Grand Juries of the country as to an examination and inquiry into every species of delinquency. They do not wish fully to sift the whole evidence, for fear of doing injustice to an innocent man, or for the purpose of arriving at a clear and certain conclusion of guilt; but it suffices to put the party upon his trial, if there *be reasonable ground for suspicion* and further inquiry. Public justice is presumed to be of greater importance than private feeling, or even individual safety. And who, we would ask, has ever heard of its being afterwards mentioned as a reproach to a person, that a bill had been found against him for such or such a crime, provided, upon his trial, he produced full and satisfactory proof of his innocence? But, in the Grand Inquest of the Nation, as it has been termed,—the vaunted receptacle for redress,—the place which throws wide its doors to receive complaint, from a nice and tender feeling, which seems continually to increase, from a degree of sensitiveness and delicacy amounting to the soreness of disease, and often, doubtless, a symptom of it—inquiries, about which the public feels the highest and most lively interest, are to be stifled from a fear (not of putting upon his trial, but) of hurting the nerves and disturbing the repose, forsooth, of we know not whom, but about whom the public, it is certain, cares absolutely nothing!

The fact, therefore, of the existence of delay being, like any other, capable of denial, it seems to have been considered necessary, notwithstanding the universal conviction and belief, to produce proof. That proof, however, was unavoidably to be comprised within the limits which the time and patience of the House prescribed. Six cases were accordingly selected from one single office, partly from choice, and partly from necessity. It is well that our readers should here be reminded, that the delay of the Court is not merely an empty sound, and unproductive of consequences to the Suitor or to the Solicitor. The latter, be it known, becomes entitled, from the commencement to the end of the suit, to what is called a Term-Fee; and, moreover,

* Burke:—Thoughts on the present Discontents.

when the cause is ripe for hearing or judgment, and is actually (as the phrase is) in the paper, to a further fee for attendance in Court, which is earned by his remaining quietly in his office: For he, of course, has too much sense to go to watch what he knows is not to come on; so that a cause fairly launched, and sailing (not through, but) in the Court of Chancery, is an annuity to the Solicitor. A certain Clerk in Court, also, comes in for his share of something, for doing absolutely nothing. As a matter of election, a single office* was resorted to, lest it should be said, that the whole profession had been ransacked and scoured to raise six solitary cases during a period of twenty-five years; but the possibility of option was also much abridged, partly from a natural attachment on the part of Solicitors to the afore-said annuities, and partly from an apprehension, by making disclosures, of giving offence to that power with which they are frequently in contact. Of these cases, which were detailed fully upon the motion, but which, with one exception we can only notice so far as their duration is concerned, we hear it constantly asserted, that they were by no means the strongest which might have been produced. Be that as it may, if no wilful and unnecessary delay by the parties themselves can be shown (and nothing of the sort was attempted, or can be pretended), nor any other explanation given to show them to be exceptions, they must be considered as much as specimens and samples of the general course of practice, as if sixty had been brought forward, or six hundred.

In the first case (*Brown v. De Taster*), a Bill had been filed for an account; and one was decreed by the Master of the Rolls, in 1812, against which there was an Appeal in that same year. Meantime, in pursuance of the decree at the Rolls, a Report was made by the Master, at an expense of not less than 500*l*. Three exceptions to that Report were heard before the Vice-Chancellor, and the Report of the Master was set aside, at an expense of probably not less than double the sum. Upon that, there was an appeal from the decision of the Vice-Chancellor to the Lord Chancellor, which was heard a year before the original appeal from the decree of the Master of the Rolls. And finally, nine years after that original decree was made, and after the appeal against it was entered, that appeal was heard by the Chancellor, and the decree at the Rolls was reversed,

* That of Mr Lowe, Southampton Buildings, who has written a book of considerable research upon the orders, fees, &c. of the Court of Chancery; from which things, we suspect, are sometimes borrowed without acknowledgment.

or so far varied, as to render the intermediate proceedings, with their attendant expenses, nugatory!

In the next case (*Oldham v. Cooke and Boxill*), a Bill was filed (on behalf of a young lady) in May 1815, to recover, against the defendants, as executors and trustees, the sum of about 3000*l.* being (as it was said) her whole dependance. Early in 1816, 1200*l.* was admitted to belong to her, and brought into Court; but whether, as to the further sum, the defendants had sufficiently answered, was the question. The Master reported the answer insufficient in the latter end of 1816; but against that Report there was an exception, and this knotty point remained undecided, and the balance (if any) locked up at the date of Mr. Williams's motion last Session!

In the third (*Whitechurch v. Holnuthy*), a Bill was filed in 1811, to restrain the lord of a manor from cutting timber, and an injunction granted. A case was afterwards sent for the opinion of the Court of King's Bench, upon a point on which the question was supposed to turn, and their decision was obtained in Michaelmas Term 1815. The matter then reverted to Chancery, and there slept, of course, undecided in the same period!

In the case of *Fillingham v. Bromley*, an appeal was lodged against a judgment of the Vice-Chancellor in 1819, and, upon the matter being mentioned, the Lord Chancellor expressed his opinion in favour of the defendant, which (as is said to be almost universally the case with him) he retained, but refused to act upon it,—and so the business slumbered in the Registrar's book, throughout the years 1819, 1820, 1821 and 1822; and then his Lordship did at last, what he might have done at first, for he abided by his original impression.

In the fifth (*Powell v. Sargent*), a Bill was filed, in 1812, against Sargent for a discovery and account, and against others for an account. To this Bill there was a demurrier, objecting, that Sargent ought not to have been a party; and such a question remained undecided, for nine years, till 1821. The Bill was amended against other parties, and was still in Court at the date of the motion.

The case of *Ware v. Howwood* (the last) is, in itself, so remarkable and peculiar, and bears so strongly upon every part of the question before the House, that we cannot omit giving it with some particularity. The circumstances attending it, our readers will bear in mind, were not furnished by any dissatisfied and complaining party, but were contained in an affidavit of the solicitor for the plaintiff, in whose favour the decision had been made. To explain this at once to our readers, it is necessary to premise, that the plaintiff's solicitor had written a letter to

the Lord Chancellor, pressing for a decision, and had seen his Lordship in his Private Chamber, upon the subject of the Decree, in the absence of the opposite solicitor, before that decree was pronounced. On this ground, the Decree was objected to as made *ex parte* and improperly, and, therefore, sought to be set aside; and *against that attempt, and to sustain the transaction*, the affidavit of the plaintiff's solicitor was made, in which, as we have stated above, and in his Bill of Costs delivered in the cause, are contained all the facts detailed to the House of Commons, and here, in part, adverted to again. From these two documents, then, it appeared, that the cause had been commenced *upwards of twenty years*,—that the charge by solicitors, for attendances alone, amounted to 1400*l.* and more—(a tolerably sufficient reason, besides the fear of giving offence, why solicitors should not be, of all mankind, the most dissatisfied with delay),—that the cause had been in his Lordship's paper, and out of it, backwards and forwards, up and down, as the fashion there is, till the patience of the solicitor being fairly wearied out, he conceived the following new, and somewhat enterprising expedient. He resolved to write to the Lord Chancellor,—and did so in these words. ‘*Ware v. Horwood*, and *Rugero v. Warmington*.—My Lord.—My clients have great reason to complain of the great injury suffered by them in consequence of these causes not keeping their station at the head of your Lordship's paper, agreeably to your Lordship's order repeatedly given in my hearing. It is now nearly *seven years* since they have been waiting for your Lordship's judgment; and, *upwards of two and a half years ago*, they had arrived at the top of paper; at which place I humbly entreat they may, until you can decide upon them, remain. There is a fund in Court of 10,000*l.* and upwards, locked up until your Lordship decides in these causes; and it is therefore matter of great importance to my unfortunate clients, that your Lordship's decision may not be delayed by the circumstances to which I have above alluded. It is painful to me to state to your Lordship, that I have learnt from authority, which I have no reason to doubt, that the infant, for whose benefit these suits were instituted, twenty years ago, died of a broken heart, on account of being kept out of his property, and that I have to contend against the bitter feelings of his relations. Under this distressing circumstance, knowing that your Lordship will pardon the liberty I have taken in thus addressing you, and which nothing but the imperious necessity of the case would have induced me to have done, I have the honour,’ &c. The scheme, bold as it was,

had its effect. The solicitor was immediately sent for to the private room of the Chancellor;—and attendances on his Lordship, upon this very singular and special mission, were charged to the client in his bill of costs, one item of which ran in the following form. ‘To attendance upon his Lordship, in his private room, *when his Lordship begged for further indulgence till to-morrow.*’ The thing went on. His Lordship, having begged and obtained a further respite, was at length as good as his word, and, with the spur in his side, made a decision.

Upon the letter above quoted, we have heard that it has been remarked, that the death of the infant was a point of stage-effect,—an incident got up to rouse and engage attention, and untrue. And suppose it to be so—what man, who has a grain of understanding, can fail to see that the fact of delay and dilatoriness in a certain quarter is one thing, the actual ill consequence in the particular case, whether more or less, another? Who can be so stupid as not to discover, that whether the infant was dead or alive, is for the purposes for which the statement was made,—to prove the fact of delay—as immaterial, as whether he wore a blue coat or a brown? Had the cause existed twenty years? Had there been 190 attendances by solicitors, for the benefit, of course, of their clients? Did the solicitor, from the urgency of clients, dead or alive, or from the outrageous nature of the dilatoriness, feel himself driven to such a state of desperation, as to write such a letter? Was such an astonishing liberty overlooked? Nay, more, was it instantly acted upon? Did the Lord High Chancellor condescend to become a suitor to a solicitor of his own Court, for the favour of a day’s delay, and was such a favour graciously vouchsafed? Can it be accounted for, except from a consciousness of personal imputation being well-founded, that the writer of such a letter was not instantly reprimanded, and with the utmost severity? Were these things,—was any one fact in any of the cases detailed, contradicted, or denied? or have they since,—except indeed by a general assertion that every thing was order, decision and despatch, in the Court of Chancery? And could any thing be stronger to show the existence of the grievance, and, in no very obscure manner, to indicate the cause? Was it not, moreover, in favour of going into a Committee, *to inquire*, at least, that some new scheme for relief was avowedly in contemplation, and that, from time to time, different ones had been suggested,—as, for example, to separate the Judicial and Political duties of the Chancellor,—or to take away from him the business of Bankruptcy,—or to appoint Commissioners upon the plan pursued when the

Seals are in commission,—or to make the Chancellor of the county palatine of Lancaster an efficient officer,—or to set some of the masters at work where it was practicable? Would it not have been safe and right, then, to have called for the testimony of skilful and experienced persons as to the nature of the mischief, and to which, of all the schemes proposed for relief, a preference ought to be given? Would it not have savoured of something like a decent attention to the necessities and importance of the case, to have *inquired first*, and *legislated after*—instead of a contrary course? These questions were answered in the House by a majority! How they were answered out of doors, we leave to the observation of our readers.

We should now proceed to consider the course pursued in the other House of Parliament, and the remedies proposed there:—in the mild form of a Report, but tending in substance to the ousting of the jurisdiction of the other two branches of the Legislature.—We find, however, that we have no longer either time or space to enter upon this branch of the subject, and must therefore postpone the sequel of the discussion to some other opportunity.

NOTE.

We omitted to mention, in its proper place, that the statement on pages 40 and 41 of this Number originally appeared in the Morning Herald. It was drawn up by Mr Hume; and could only have been drawn up by one who had paid the greatest attention to such subjects, and understood them well.

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- ART. I. 1. *Remarks on the Declarations of the Allied Powers from Verona.* By an ENGLISHMAN. 8vo. London, 1823.
2. *Britannia's Letters to a British Prince, on the Holy Alliance.* 8vo. London, 1823.
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IT is curious, for middle-aged persons like us, to look back on the public history of the last thirty or thirty-five years—on the hopes and disappointments, the fears and deliverances, the revolutions and restorations, which have filled that eventful period—and on the strange concatenation and dependency of events by which these results have, in so many instances, been effected—the fatal triumphs, the glorious disgraces, the disasters that have proved the means of unexampled prosperity! We suppose it is the close of another year which has led us into this vein of meditation;—and, though it is to the present condition and immediate prospects of the world, rather than to its recent history, that we now wish to call the attention of our readers, we cannot well enter on the subject without indulging ourselves in a brief retrospect of the causes which have brought us into this condition, and set these prospects before us.

The drama opened, it must be confessed, with a brilliant and startling flourish—the new series of the world's annals was ushered in with a most captivating prospectus—all old prejudices to be dispelled, and all old tyrannies overthrown—the whole race of man to be emancipated and regenerated—all formal distinctions and fantastic privileges to be abolished, and every one made free to enter on the open career of honour, on the strength

of his virtues and talents alone! The work began, too, with intrepidity and vigour enough—and there was as little want of energy in the execution, as there had been of boldness in the design. But the scene was soon overcast. Rash and extravagant experiments were made in all the branches of legislation—a passionate and presumptuous spirit of innovation took place of the sober spirit of reform—old principles were brought into question, as well as old prejudices—and the best established maxims of morality and religion were treated with the same irreverence as the mere arbitrary institutions of less instructed men. Where all standards of opinion were thus destroyed, and all authority exploded, there could, of course, be no umpire in the disputes which ensued, but force. Men's doubts, accordingly, were first solved by their passions or their interest,—and then their dogmas were imposed on others by violence and terror. The most atrocious crimes were committed with the most revolting effrontery—and the effects of mutual distrust and apprehension were to render all alike cruel and perfidious. They proscribed that they might be safe from proscription—and set the example of treachery as their only chance of not being betrayed. Obscure men were thus raised, one after another, and at least as much by their fears as their ambition, to precarious and lawless power, from which they were successively swept down, unlamented, by the turning of the bloody tide:—till at last a more vigorous system of military rule overawed the sanguinary factions, and imposed silence on their crude and turbulent speculations.

Still there remained the force and the talent that had been sublimed from the heated multitude in the course of the great experiment; and the scene, though it had lost much of its attraction, had certainly lost nothing of its terror. The revolutionary armies overran the world—and her diplomatic agents overreached it. The old tyrannies, nearly as hateful, and far less strong, crumbled before their blows, or melted in their lightnings. Some truckled, and were insulted—others bullied, and were trampled out of existence—and the greater part ended with courting the alliance, and receiving the contemptuous mercy of that more potent and enlightened tyranny, which either swallowed up all the rest, or spared them at its pleasure. The whole Continent of Europe then presented a spectacle at once humiliating and frightful—unbounded insolence on the one hand, and unmeasured servility on the other;—while all the talents and energies which had been conjured up by the revolutionary crisis, and fostered by its incredible successes, were turned entirely to the purposes of a cold-hearted and remorseless ambition. An immense power—intellectual and physical—

had been generated in the course of these contentions—in the first place undoubtedly by the sudden liberation and expansion of plebeian talent and ambition in the revolutionary countries, and afterwards by the audacity which was inspired by the spirit of the times—leading men every where to cast off the trammels of old opinions, and to venture on new and bolder methods, with an assurance that nothing was impossible to the daring. But this mighty power was from the beginning more terrible than majestic; and, it is miserable to think, was never once employed in any noble or generous cause. Its aspect from first to last was rapacious, insolent, vindictive—and, with the means of regenerating the world, contemplated no higher end than that of subduing it. Nothing was safe from its violence, nothing sacred from its injustice. The wrongs it did were aggravated by insult—and the complaints they provoked answered by mockery and derision;—national independence was trampled on, and national honour profaned.

At last 'vaulting ambition overleaped itself,' and the scorner of mankind found, that intimidation had not extinguished the thirst for revenge. The giant who brooded over the centre of Europe could not grasp both the South and the North with the utmost stretch of his hands. The obstinate valour of England, with Spain, yet unspoiled of her spirit by Legitimacy, baffled him in the one—the elements, with the stars in their courses, fought against him in the other. The love of national independence, the sense of national honour, revived in the intermediate regions. The downcast Sovereigns took advantage of the season—and, recollecting how their subjects had been beguiled by the fair promises of the first revolutionists, and how bitterly they had resented the breach of them, addressed themselves at once to their pride and their hopes,—protested against *the despotism* of the prevailing system, and held out its continuance as the only bar to the universal adoption of liberal institutions. The appeal was not made in vain. There was no longer disaffection in their armies, or deficiencies in their contingents. One spirit of zeal animated all parties. For the first time there was an honest concert among the Sovereigns themselves, who had at last discovered, that it was their first interest to put down the common foe, and that by nothing but a sincere union could this be effected. They banded, therefore, against him from the East and from the West; and at length succeeded in tearing to the earth that enormous fabric of military power by which they had so long been oppressed.

Then, for a brief season, there was exultation, and good humour, and symptoms of cordiality between subjects and rulers,

—charters were granted, and constitutions promised; and professions zealously made of a design to separate the gold that had been brought to light, and tried in the fires of the Revolution, from the dross with which it had been debased. But this was a transient and deceitful gleam; and a deeper darkness soon settled on the world. The restored Governments, forgetting how much of what they deplored had been owing to their own vices and misconduct, manifested a vindictive jealousy of all that had been done against them; and seemed inclined to provoke a repetition of the insurrections by which they had suffered, by returning to the very follies and abuses by which they had been mainly produced. The dread, however, of the past—the ultimate bad success of the former experiment, and their own continued concert, enabled them to do this with safety; and they used the power which they had thus regained neither with moderation nor mercy. Their charters were revoked—their promises broken—their amnesties violated—the most offensive pretensions were openly put forward—the most revolting prejudices countenanced—the smaller states were relentlessly sacrificed—and the greater ones, made more formidable by their union, assumed a tone of dictation unknown in the history of the world—and used it to proclaim the most slavish doctrines, and to announce their purpose to maintain them at the point of the sword.

Upon this system they have since acted—and, so far as they have gone, they have been successful. Arbitrary government is now maintained all over the Continent of Europe, more openly in theory, and more rigorously in practice, than it was before the French Revolution was heard of;—and political freedom is more jealously proscribed, and liberal opinions more vindictively repressed, than in any period of modern history. ‘The wheel has come full circle:’—and after the speculations and experience of thirty-five years, we seem at least as far from political improvement as we were at the beginning!

And is this indeed so? Has the troubled and bloody scene passed before us but as a pageant, to excite our wonder and be forgotten? Has this great and agitating drama no moral? Have the errors, and crimes, and sufferings of thirty years taught no lessons?—have the costly experiments in which they have been consumed ascertained no truths? Have the statesmen and philosophers who directed the stormy scene, or the heroes who gave it movement and glory, lived and died in vain? Is political truth a chimera, and political science a dream? Are the civilized nations of Europe in reality unteachable?—or has the progress by which they have advanced beyond the condition of barbarians, already attained its limits—and is what remains of

their destiny to be fulfilled in painful attempts at improvements that are never to be attained, and impotent struggles with abuses that must for ever recur?

We will not believe it. The affairs of mankind do not revolve in a Circle, but advance in a Spiral; and though they have their periods of obscurity, as well as of brightness, tend steadily, in spite of these alternations, and by means of them, to a sure consummation of glory. There is, we are firmly persuaded, a never-ceasing progress to amelioration; and though each considerable movement is followed by a sensible reaction, the system moves irresistibly onward; and no advance that is made is ever utterly lost. The years on which we have been looking back, have left indelible traces behind them,—and both truths and errors have been demonstrated, by experiments a great deal too impressive to be speedily forgotten. The losers and the winners have both been taught by events of the utmost moment and authority. The governments that have been restored to their old forms, have *not* been restored by any means to their old condition;—and though the dispositions of the rulers may be the same, the circumstances in which they are placed are essentially different. They feel this, too, in spite of themselves; and begin already to accommodate themselves to the new necessity. A great lesson, in short, has been taught to all nations. They who receive it most willingly, will profit the most by it;—but its first lines, at least, are impressed on the most reluctant, and must produce a corresponding change on the conduct of all. It is to the nature of this change, and of the other changes to which it must ultimately lead, that we wish now to direct the attention of our readers.

It would be shutting our eyes to the objects that press most importunately upon them, not to admit, that the first and immediate effect of the change to which we have alluded, is unfavourable to political freedom. It is a fact no less certain than lamentable, that the Governments of continental Europe are at this moment more truly arbitrary in principle and practice than they ever were before;—and that it is most likely that they will continue for some time to be administered on these principles. That part of the world is now in its *aphelion* from the Star of Liberty, and has not yet, perhaps, reached the point of greatest obscurity: But we still believe, not only that it will in due time emerge into greater brightness than ever, but that its orbit is even now converging rapidly to the centre from which its illumination proceeds. To explain this, it is necessary to consider, very briefly, what the circumstances are which have thus recently strengthened the bands of absolute monarchy.

The first, undoubtedly, is the intimate union they have formed among themselves for the purpose of supporting these principles,—the discovery they have made, that it is better for them to fight together against the liberties of their people, than to fight with each other for the mere enlargement of their dominions. The detestable conspiracy into which they have entered, under the blasphemous name of the Holy Alliance, is the great cause and support of the tyrannical maxims upon which each now thinks he may safely proceed to administer his government;—and so long as they look upon increase of personal power, and security in practical tyranny, as of more value than mere increase of territory, or of foreign influence, so long, it is not impossible, that this impious confederacy may continue.

Another great source of the strength and present safety of these governments is, the general diffusion of improvements in the art of war, and the maintenance and equipment of armies;—by means of which, a much smaller force is capable of keeping in awe a larger population,—and at the same time a limited revenue enabled to maintain more numerous forces.

These, we think, are the immediate and occasional causes of the confidence and apparent security with which arbitrary power has been recently proclaimed as the only legitimate spring of European government. But there is another, and a more ominous cause, which is only beginning to operate, and threatens to exercise a more durable influence in support of the same system,—though still more likely in the end to counterwork the purposes for which it has been called into action,—and this is, the improved knowledge and policy of the absolute governments themselves, and their gradual correction of all abuses which do not tend to maintain their despotism—a topic which both deserves and requires a little more development.

Tyrannical governments have hitherto been singularly ignorant and prejudiced; and more than one half of the abuses which make them odious in the eyes of their subjects, have had no immediate connection with political rights or institutions, and might have been safely redressed, without at all improving the constitution, or increasing the political consequence of the people. Their great danger has always been in the superior intelligence of the people, with whom the policy of their rulers has usually been a subject of contempt, as well as of resentment, and who, in their plans of reform or resistance, have uniformly had a most mortifying advantage, in point of contrivance, combination, address, and patience. A new era, however, we think, is now begun as to all these particulars—and though it is impossible

that either the oppressors or the oppressed can ever prove a match for freemen in the virtues and talents which are the offspring of liberty alone, it is nevertheless true, that the eyes of the rulers have at last been opened on their own nakedness and weakness, and that great efforts are making, and will be made, to secure to the cause of tyranny some part of those advantages, which the spread of intelligence and general multiplication of talents have lately conferred on all other institutions. The effects of this will soon become apparent in every department of their proceedings. They will employ better casuists and more ingenious sophists, to defend their proceedings—they will have spies of more activity and intelligence, and agents of corruption more crafty and acute, than they have hitherto thought it necessary to retain in their service. But principally, and above all, they will endeavour to rectify those gross errors in their interior administration, which are a source at once of weakness and discontent; and by the correction of which, they will infallibly extend and multiply their resources, while they cut off one fruitful spring of disaffection. They will not only seek therefore to improve the economical part of their government, and to amend the laws and usages by which the wealth and industry of the people are affected, but they will seek to conciliate their good will, by mitigating all those grievances from which they themselves derive no advantage, and which may be redressed without at all advancing the people in their pretensions to the character of freemen. They will construct roads and canals therefore—and encourage agriculture and manufactures, and reform the laws of trade—and abolish local and subordinate oppressions—and endow seminaries of education, and inculcate a reverence for religion, and patronize academies of art:—And all this good they will do, at the instigation of that more enlightened, but more determined hostility to popular rights, by which they are now professedly actuated, and with a view merely to these two plain consequences. In the *first* place, that, by increasing the wealth and population of their subjects, they may be enabled to draw from them larger taxes and supplies, and to recruit greater armies to uphold their tyrannical pretensions:—And, in the *second* place, that by keeping the body of the people in other respects in a comfortable condition, they may have a better chance of reconciling them to the privation of political rights, and not have the discontent which arises from distress to combat at the same time with that which arises from injustice. The roads and canals too are of excellent use for the easy and rapid transportation of armies and their appointments—and religion and education, in the paternal hands of such governments, are known to be the best of all engines for the dissemination of universal servility.

On the strength then of these improvements, and taking advantage at last of that civilization and intelligence which had formerly been their surest corrective, the arbitrary governments of the present day proposed to become more arbitrary, and more adverse to popular institutions than ever—and to wage a fiercer and more acrimonious war on the principles of liberty, with weapons which liberty could alone have furnished, and which have scarcely ever yet been employed but in her cause. The great strength and hope of freedom was formerly the progressive information and improvement of the body of the people,—obtained chiefly by the influence of the measure of freedom they had gained, and acting alternately as the cause and the effect of its increase: But the new policy of despotism has taught it to avail itself of these very circumstances, for the advancement of its own sinister interests—to enlist those arts which are the children of liberty, in unnatural hostility against her—and to pervert what has hitherto been regarded as her best aliment and protection, into the main instrument of her destruction. Economical improvements, therefore, with political intolerance—more protection to private rights, with more restrictions on public ones—melioration in municipal laws, and corruption in the constitution—less discontent among the lower people, and more tyranny in the government—more luxury, in short, and less freedom—are what we must expect to see more and more conspicuously for some years to come, as the first fruits of that more refined and insidious system on which the circumstances of the times have visibly driven the governments of which we have been speaking.

No man can look, indeed, to their recent proceedings, without seeing that such is their plan of policy. France, heading a crusade against national independence, and announcing a creed of unqualified despotism, is full of schools, and engineers and financiers—and gives up the proudest of her palaces to dignify the display of her most homely manufactures. In Germany, new towns and villages and cotton-spinning establishments rise everywhere by the side of new barracks and prisons; and other trades are encouraged, to give more effectual encouragement to the great engrossing trade of war. In Russia, Alexander is establishing schools for his peasantry, and mitigating the severity of their feudal servitude, while he is digesting better plans for the regular recruiting of his enormous armies; and making factories for his merchants, while he is proscribing the works and the persons of all who, by word or deed, would encourage, however indirectly, the slightest encroachment on the hallowed purity of his despotism. Even Austria, the most vin-

dictive and low-minded of the confederates—Austria, who has her Italian dungeons full of men of virtue and talent, for suspicions of liberal opinions—who proscribes all political discussion, in speech or by writing, by the most brutal severities *—who pursues the victims of her unmanly tyranny into their foreign asylums †—who recalls her travelling nobility by threats of confiscation, and rewards them, on their return, by arbitrary arrests:—even this Austria is making efforts to conciliate and multiply the lower classes from whom her armies are recruited, by regulations for the improvement of agriculture and manufactures, and large and judicious expenditure, even in Italy, upon works of public utility, roads, canals, and all the enginery of irrigation. The policy, in short, is manifest, and is beginning to take effect. There is now less risk of insurrection in those countries than there has been for the last thirty years; and their governments are likely enough, if they can only act up to the principles on which they have begun, to go on for some time in

* The punishment of political libel, or verbal sedition, in Austrian Italy, is, for the first offence, the *carcere duro* for an indefinite period,—which signifies solitary confinement in a dungeon, without light, except for half an hour in the day, when the bread and water are supplied, with the indulgence of irons of moderate weight, and straw to sleep on. For the second offence, the *carcere durissimo*, in which light and food are supplied but once in two days, and the patient is loaded with irons as heavy as can be used without immediate danger to life, and fastened in such a position as to be totally precluded from lying down, and only allowed to seek repose by sitting or leaning on a pillar of stone. These punishments, we have been assured, have been rigorously inflicted for the last two years—their strict execution ascertained by ocular inspection of persons of the very highest rank—and magistrates censured and degraded for yielding to the smallest relaxation.

† A great number of meritorious and accomplished individuals have been lately obliged to fly from Geneva upon the imperative requisition of Austria, who did not hesitate, it is said, distinctly to intimate to that insulted republic, that if the proscribed persons were not ordered out of her territory, a military force should march into it, and make them prisoners in the heart of her city. Not contented, too, with interdicting all works that treated of political matters within her own dominions, this usurping power has also insisted on the literary and discursive republic of Geneva adopting the same regulation: and, by open and undisguised menace of lawless force, has actually compelled that small and unfortunate State to pass a temporary law, prohibiting all publications, and all public discourse, in which the merits or demerits of any of the actual governments of Europe are in any way brought into question!

a tolerably safe course of defiance to all claims of right, and all sorts of popular interference.

But in what way is the experiment to end—and what is the compensation that is ultimately to be made for the present security and imposing attitude of arbitrary power?

We would answer, in the *first* place, that the improvements which are actually making, though for sinister ends, are a great good in themselves, and add manifestly to the mass of human comfort and happiness. We must not quarrel with actions that have such results, by inquiring too anxiously into their motives. Knaves, who are honest only because they think it the best policy, are better, at all events, than knaves who have not yet learned that lesson; and selfish men, who are beneficent from vanity, are very nearly as useful in society as those who are so from kindness. But the true answer is, that the men who are now treated with justice in some things, must by and by be so treated in all things; and that, whether those who so treat them shall be trained along with them or not, to such an extension of their principles, the result is equally inevitable, and the present preparatory discipline can ultimately forward no other end.

The present absolute governments must either persist in their new policy of partial and subordinate reformations, or abandon it, and recur to the old ruinous abuses. The most bigotted and ignorant will probably try the latter experiment, in some moment of passion or supposed necessity—and this will be the first practical exposition of the true and genuine effects of the experiment which they had begun. Nor can any one doubt for an instant what these effects will be. Men accustomed to the enjoyment of certain rights and comforts, will be far more discontented and clamorous when they are withdrawn, than if they had never been allowed to possess them. If the system is to be discontinued, therefore, so much the worse for the rulers. Its effect will be to make their subjects far more inclined to rebellion than if it had never been tried; and its apparently lulling operation will turn in the end to a most formidable cause of excitement. But the true way of testing its character is to suppose, as indeed is most likely, that it will, to a certain extent, and with occasional deviations, be persevered in long enough to be incorporated in the habits both of the people and their governors; and let us then consider what must be its ultimate operation on both.

And first as to the people.—It is quite true, that men at their ease will be less apt to rise in wild insurrections, than men in distress; and that habits of industry and tolerable employment are the great cures for a certain kind of disaffection. But it is not

less true, that men to whom their rights have been conceded in one department, are the most formidable petitioners for their concession in others—that it is more difficult to do justice by halves, than to withhold it altogether—and that, where right and reason are with the people, any partial sacrifices made to them are so far from allaying their appetite, that they serve only to excite and inflame it. They form but the leaven which sets the whole mass in more active fermentation—conquests that add to their means of farther conquest—interests that are accumulated to their capital—votes gained or neutralized that are of value chiefly for contests that are yet to come.

But the matter does not stand upon metaphors—but upon plain fact and experience. Men first desire subsistence—property—and some sort of security for both. Till they have attained these for themselves, they have no leisure to think of the rights of others, or of their own rights, to think, to speak, or to act in matters of less immediate concernment. Till then, they can scarcely be said to have attained the qualifications of political agents;—and though they may be easily stirred to tumultuary movements, have generally neither interest nor intelligence to conceive or to assert their rights as members of a community. With property, however, and the means of acquiring it, comes the feeling of these rights, and the capacity and habit of reasoning which leads irresistibly, and by a very short process, to their full development. When a man has once come to a full sense of his right to retain his property against any *private* claimant, till a sufficient reason is shown for parting with it, he comes almost instinctively to feel the same right to question the title of the government to interfere with his possessions; and when called on for contributions for what he is told is the *public benefit*, is apt to require evidence of the public having any interest in the exaction; and to conclude, that the public alone can legally determine what is for public utility. These feelings are still more strongly raised, if, in addition to pecuniary contributions, personal services and sufferings are required of him in behalf of the government;—and more strongly yet, if distinctions are made among those who are liable to such exactions—if one class of persons is exempted in whole or in part—and if those same persons have the exclusive enjoyment of certain honours and emoluments which government is in the habit of bestowing.

It requires no study or systematic instruction to bring men to those feelings and opinions. They arise naturally and universally among all persons who have property and intelligence enough to extend their thoughts beyond the care of themselves.

subsistence—and plainly lead at once to the assertion of *political rights* in their broadest and most comprehensive sense—a right, on the part of the public, to controul in some shape or other, the exaction and application of the funds which the public supplies—and, on the part of individuals, to share *equally* in the protection and benefits which the government has the power of dispensing. It is the refusal or privation of those rights which properly constitutes an arbitrary government;—and therefore, when such governments take measures for promoting the wealth and instruction of their people, they are plainly laying the foundation of claims by which their own absolute power must be subverted. When they have attained to this condition, they will be less liable indeed to break out into riot and violent insurrection—but they will be more sure to insist on rights to which they feel their claim to be irresistible. They will show more judgment both in the ends at which they aim, and the means they take to compass them;—and, above all, will be more resolute in their prosecution of them, precisely as they are more temperate in their views, and more assured of ultimate success. So certain indeed is the connexion between wealth and intelligence in the body of the people, and freedom in the constitution of the government, that the one may safely be taken at any time as a practical measure or exponent of the other—and that the surest as well as the safest way of inspiring any people with a love of liberty, is to direct our first attention to the general cultivation of their understandings, and the establishment of those habits of industry which lead to wealth and independence. If these can ever be introduced, the love of liberty will spontaneously arise—and with it the power, and the consciousness of power, to give effect to its dictates.

The history of the world shows, that whenever men attain any such degree of comfort and security, as exempts them from the daily necessity of servile drudgery, and gives them the means of acting in concert and society, they immediately form the rudiments of a political constitution, and provide for the exercise of their most material rights. The first establishment of Burghs, and their scheme of internal government, all over Europe, affords a striking example of this—and the reformation, which the growing lights and intelligence of the people afterwards introduced universally in their religious establishments, (for the Catholic churches were *reformed* as well as the Protestant), may be cited as another. The economical reforms now introduced by the absolute monarchs, are also to be referred in substance to the same general intelligence. For they were called for and required by the people, long before their rulers were convinced of their necessity. They are to be reckoned, there-

fore, among the triumphs of reason and justice over prejudice and sinister or mistaken interests,—and nothing is so certain as that one such triumph always paves the way for another, and that the general reason which has overthrown one set of errors and prejudices, becomes more able and more eager to cope with those that may remain. It is impossible to give a nation the use of the faculty of reason, and to prevent them from employing it on the subjects that interest and concern them most nearly. It is impossible to make them feel and understand their rights as to one class of persons, and yet keep them in ignorance or indifference as to others. If they once have the principle, they cannot be prevented from making its full and true application. You cannot couch their cataracts, and unseal their eyes, and yet tell them that they must not see the most conspicuous and interesting parts of creation. You cannot acknowledge their claim to their baser rights, and yet think of strengthening your resistance to their demands for the higher. You cannot teach them to expect and compel justice from each other, and yet to submit to injustice from you. You cannot, in short, give them good laws, and yet insist on their living under a vile constitution. It is certain, therefore, that all those partial reforms, which are intended to bribe the people into acquiescence in tyranny, and render usurpation popular, can ultimately have no other effect than to make them more desirous of that general reform which implies the downfall of tyranny—and to increase, in the same proportion, their power to execute their desires.

So much with regard to the people: As for the rulers, the speculation may not be so certain. But we do not think it absolutely romantic to hope, that the habit of doing justice in part may reconcile them to doing it entirely;—that having experienced the advantages of yielding in so far to the spirit and intelligence of the times, they may come by degrees to yield to it altogether. Having found it both safe and pleasant to sacrifice certain prejudices, they may be encouraged to venture on the sacrifice of others; and having already discovered that they can live in wealth and dignity, although they have abandoned the prerogative of purveyance or arbitrary confiscation, they may come in time to discover, that their best power is not inconsistent with the liberties of their people, and that the dignity and safety and popularity of a Constitutional King is better than the barbaric pomp and danger and solitude of a Despot.

We do not rest much, however, on these considerations. Unaccountable as it may seem to the rest of the world, there certainly must be a strange sort of pleasure or fascination in the possession of absolute power; so that its possessors can scarcely ever

be expected to resign it but on compulsion; and those who have any chance of acquiring it may always be suspected of a disposition to hazard a good deal for its attainment. There is one consideration, however, which we think may be supposed, without extravagance, to have ultimately some weight in reconciling arbitrary monarchs to constitutional control,—and that is, that in civilized countries and important affairs, they know well enough that they really must submit to the control of somebody,—and may learn, at last, that it is both more dignified and more comfortable to submit to that of the general sense and wisdom of the nation, by conforming to which they must acquire popularity and personal influence, than to that of a junco of ignorant favourites and presumptuous councillors, who must always run a great risk of exposing them to odium, disaster, and contempt. We do not know how it may be in Dahomy or Ashantee, where the personal will of the sovereign is said to be literally the law; but even in Turkey and Russia, the Emperor is not independent of control; and in the civilized parts of Europe, and under governments where the interference of the people is most jealously excluded, the monarch is daily obliged to submit his own wishes and opinions to those of his courtiers and advisers. Now, these worthy persons, when they do venture thus to cross the royal pleasure, do it most commonly upon some vague and imperfect apprehension of the necessity of not running too violently against the current of public opinion, of which, however, they generally know almost as little as their master,—and consequently, nine times out of ten, thwart and offend him, only to bring him into new perplexities. In such circumstances, we really do not think it too much to surmise, that these unconstitutional rulers, finding that they cannot be absolute in reality, should come to prefer the safe and honourable control of a national representation to the secret and ignoble domination of a few interested and incapable individuals, who use them as disrespectfully, and lead them into far more embarrassing situations than the most popular councillors.

But even if this should not happen, there is one view in which we conceive the general adoption of more enlightened, though selfish principles of government, must have a beneficial effect on the character of the rulers. To carry through such principles, the administration must, in most of its branches, be intrusted to men of ability and liberal information. Mere favouritism or old nobility will no longer be sufficient qualifications for high office; and the monopoly of the aristocracy or courtiers must either come to an end, or they must acquire the talents and in-

formation that may enable them to discharge their duties sufficiently. Symptoms of this, we think, are already apparent in most of the courts of Europe. The ambitious part of the noblesse are already putting themselves to school, with a degree of labour and industry from which their fathers would have revolted with disdain; and even Princes of the blood are beginning to think it necessary to know something beyond the fashionable games of hazard and address, or the arts of personal intrigue. This, of itself, will be a great gain to the country; but its chief benefit is in its tendency still farther and unconsciously to enlighten and liberalise that whole *caste* of persons by whom the absolute governments must for some time be administered; and not only to prepare them to acquiesce peaceably in inevitable changes, but to enable them so to read the manifest signs of the times as to avoid fatal struggles by prudent concessions, and substantially to cooperate with the opposite interests in the state in a wise adjustment of differences, which obstinacy might render irreconcilable.

We must not venture, we fear, to pursue these speculations any farther; and enough, probably, has been said to explain the views we entertain of the new policy of the arbitrary governments, and of the results which we think it is preparing. There is one objection, however, which suggests itself too obviously to the whole scheme of our observations, to admit of our passing it over without notice; and to which we refer the more willingly, because it leads to some material illustrations of our doctrine, which we could not so well have introduced in any other connection. If despotism is growing so wise, it may be asked, How is it really worse than constitutional government? If nations are secured in their civil rights, of what substantial value are political ones? and why predict and provoke revolutions, with all their risks and horrors, for the sake of a name and chimera?

Now, to this, we answer, in the *first* place, that the possession of political rights, the consciousness of freedom, independence, and a share of self-government, is in itself a great pleasure; and leads to many other enjoyments and exertions, which are at once delightful to the individual and profitable to the community. We have not time at present fully to develop and illustrate this truth; nor can we suppose it necessary, at least for our English readers. We may observe, however, that if the best practical laws were enacted by a despotic government, they would infallibly appear much less perfect, and be more murmured at and complained of, than if the very same code had been adopted by a representative legislature, after con-

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sultation with those whose interests they were to affect, and substantially by their authority. There would necessarily be less discontent and disorder, therefore, under the one system than under the other; and though the law were actually the same, men would submit much more cheerfully and happily to rules of their own making, than to the mandates of an absolute master, however enlightened and benevolent.

But the true answer is, that there can never be such good laws, and such good execution of them, under an absolute as under a free government; that without political rights there can be no security for civil ones; and that it is the feeling and experience of this, more even than the instinctive love of independence, and impatience of subjection to an equal, that has, in all ages, impelled men to contend, amidst the applauses of their kind, and against the most fearful odds, for the vindication of their political liberties. The education of absolute monarchs is not likely to make them very wise or industrious or benevolent; and the chance plainly is, that the greater number will be distinguished for the opposite qualities. But if we could ensure to all the thrones of the Continent a succession of Tituses and Antonines, we should not be at all nearer any security for a wise administration. A popular government, however, *does* ensure at all times a mass of wisdom and information for the management of its affairs, in comparison with which any possible attainments of the most highly gifted individual must always be insignificant; and not only brings to bear upon every department of its business the talents and experience of those who are most conversant with it, but affords to all an assurance that such information has been obtained. It must always be the interest of any country, that all the knowledge and energy it contains should be employed in the enactment of its laws and the administration of its government; and that the measures adopted by its rulers should be conformable to the general opinion of its inhabitants. Now, it is the great virtue of a representative legislature that it ensures this object; while the universal responsibility of its functionaries, and the favour with which all colourable accusations against them are always received, seems to secure as much purity in their actual conduct, as the infirmities of human nature will ever allow us to expect.

No patriotism and no wisdom in an absolute ruler can attain these objects. But, in truth, it is absurd to suppose, that absolute rulers will ever be either wise or patriotic. The very genius of their place necessarily inspires other sentiments. The very fact, that they cling fondly to their arbitrary power, proves that they are conscious of abusing it. If they never proposed

to do any thing but what was conformable to the wishes and opinions of their subjects, why not give them an opportunity at least of making these opinions authentically known?—why not bind themselves to comply with them?—why not legalize and divide their power, in short, with the representatives of the nation, who might assist them with their advice, and share with them the responsibility of the execution? The truth is, they neither contemplate nor wish for any such conformity; and though, in a season of alarm, and upon a narrow view of the consequences, they now propose, in some respects, to better the condition of their subjects, they are neither likely to pursue this policy steadily and consistently, nor to hesitate about abandoning it entirely, as soon as they discover that it threatens ultimately to impair any of their darling prerogatives. The time probably never will come, when it will be safe for them to trace back their steps, and entirely to undo what they are now doing; but they will infallibly tamper with the system which they dare not openly abandon, and interfere so often, for the gratification of, their own passions, or the vanity and cupidity of their favourites, even with the economical projects they now profess to favour, as to prevent in a great degree the practical good they might have effected, and thoroughly to convince their subjects, that, until they have their rights settled by law, and made independent of the will of the government, there is no reasonable security, either for their continuance, or for their being fairly and equally awarded while they remain. The system, in short, will be most imperfectly and inconsistently administered; and, though we trust it will have operation enough to raise up a spirit of liberty, which nothing but reform can lay again, we have not the least apprehension that it will so exemplify the possible excellence of tyranny, as to make men enamoured of its bounty, or convinced that, for the substantial purposes of life, political freedom is but a troublesome superfluity.

We have but one other observation to make before we conclude. It has often been remarked, that genius and energy of character, nay, even that the nobler and more intellectual kinds of industry, are never found to thrive in any but a free country, or to form in any other circumstances the basis of a national character. The observation is as old as Aristotle, and all subsequent experience has confirmed it. The fact, indeed, is quite certain, and the reason of it sufficiently obvious. Where the most animating subjects are interdicted, genius feels in perpetual dread of rebuke, and disdains to display itself even on those that are permitted; and, while an insulting and impassable barrier shuts up the career of plebeian ambition, all the heroic

energies of the character are repressed and extinguished. Even in mechanics, in trade and manufactures, the higher spirit of enterprise will not be exerted if the higher rewards of distinction and political importance be withheld. The successful merchant, in this country—the inventive engineer—the ingenious chemist—the founders of Sovereign companies—the discoverers of steam-engines and safety-lamps, are stimulated in their meritorious labours by the personal honours, as well as the solid wealth to which they aspire, and look forward, not only to a station of equality in the very highest society, but to a seat in the Legislature of their country, and to titular dignities that rank them with the aristocracy of the land. It is only, in short, in a free country, that there is either encouragement for useful enterprise, or security for the reward of perseverance. But we will not be tempted to enlarge further on these topics. The time has been, even since the commencement of our labours, when we should have been ashamed to have insisted so anxiously on truths so elementary,—and now we shall not be surprised to find that they are considered as paradoxes !

In all that we have now said, we have referred only to the absolute governments of the Continent, and to those chiefly who have associated themselves under the title of the Holy Alliance. To England, we confidently trust, the letter of our observations never will be applicable. But even there, there is much to which the spirit of them may be applied. We, too, are beginning a new era of economical reform, under the patronage of the most jealous opponents of popular rights ; and it is not to be doubted, that the credit and popularity which they expect to derive from their new and compulsory liberality in matters of trade and internal regulation, will be employed to strengthen their hands in resisting all proposals for political reform, and in weakening and undermining the democratical parts of the constitution. We are far from insinuating, that they have adopted these improvements merely for the purpose of gaining this support to their Tory principles. They have been forced upon them, we do not doubt, by a sincere, though somewhat tardy conviction of their expediency ; and if any thing could add to the honest satisfaction, with which we look forward to their actual adoption, it would be the recollection, that they were first suggested by that party in the State to which we have always professed our attachment, and had long to encounter the bigotted opposition of many of their present supporters. We hope we may be permitted to regard this as an augury of their future conversion on points still more important ; and, at all events, we trust that the recollection of it will cooperate with the cautions and warnings we have now presumed to offer, in induc-

ing the public to look with some distrust on arguments against the principle of reform, from persons who are now practical reformers—and to judge somewhat favourably of the merits of a cause, to which the most enlightened and powerful of its original enemies have been compelled to proclaim their conversion.

ART. II. 1. *A Letter to the Right Honourable Robert Peel, one of his Majesty's Principal Secretaries of State, &c. &c. &c. on Prison Labour.* By JOHN HEADLAM, M.A., Chairman of the Quarter-sessions for the North Riding of the County of York. London. Hatchard & Son. 1823.

2. *Information and Observations, respecting the proposed Improvements at York Castle.* Printed by Order of the Committee of Magistrates, September, 1823.

It has been the practice, all over England, for these last fifty years, * not to *compel* prisoners to work before guilt was proved. Within these last three or four years, however, the magistrates of the North Riding of Yorkshire, considering it improper to support any idle person at the county expense, have resolved, that prisoners committed to the House of Correction for trial, and requiring county support, should work for their livelihood; and no sooner was the tread-mill brought into fashion, than that machine was adopted in the North Riding as the species of labour by which such prisoners were to earn their maintenance. If these magistrates did not consider themselves empowered to burthen the county rates for the support of prisoners before trial, who would not contribute to support themselves, it does not appear, from the publication of the Reverend Chairman of the Sessions, that any opinions of Counsel were taken as to the legality of so putting prisoners to work, or of refusing them maintenance if they chose to be idle; but the magistrates themselves decided that such was the law of the land. Thirty miles off, however, the law of the land was differently interpreted; and in the Castle of York large sums were annually expended in the maintenance of idle prisoners before trial, and paid by the different Ridings, without remonstrance or resistance. †

* Headlam, p. 6.

† We mention the case of the North Riding, to convince our readers that the practice of condemning prisoners to work before trial, has existed in some parts of England; for, in questions like this,

Such was the state of affairs in the county of York before the enactment of the recent Prison bill. After that period, enlargements and alterations were necessary in the county jail; and it was necessary also for these arrangements, that the magistrates should know whether or not they were authorized to maintain such prisoners at the expense of the county, as, being accountable, and unwilling to work, still claimed the county allowance. To questions proposed upon these points to three Barristers, the following answers were returned.

'2dly,—I am of opinion, that the Magistrates are empowered, and are compelled to maintain, at the expense of the County, such prisoners *before* trial as are able to work, unable to maintain themselves, and not willing to work; and that they have not the power of compelling such prisoners to work, either at the tread-mill, or any other species of labour.

' J. GURNEY.'

' *Lincoln-Inn Fields, 2d September, 1823.*'

'I think the magistrates are empowered under the tenth section, (explained by the 37th and 38th) to maintain prisoners before trial, who are able to work, unable to maintain themselves by their own means, or by employment which they themselves can procure, and not willing to work; and I think also, that the words "shall be lawful" in that section, do not leave them a discretion on the subject, but are compulsory. Such prisoners can only be employed in prison labour with *their own consent*: and it cannot be intended that the Justices may force such consent, by withholding from them the necessaries of life, if they do not give it. Even those who are convicted, cannot be employed at the tread-mill, which I consider as a species of severe labour.

' J. PARKE.'

' *September 4th, 1823.*'

'2d,—As to the point of compelling prisoners confined on criminal charges, and receiving relief from the magistrates, to reasonable labour; to that of the tread-mill for instance, in which, when properly conducted, there is nothing severe or unreasonable; had the question arisen prior to the late Act, I should with confidence have said, I thought the magistrates had a compulsory power in this respect. Those who cannot live without relief in a gaol, cannot live without labour out of it. Labour then is their avocation. Nothing is so injurious to the morals and habits of the prisoner as the indolence prevalent in prisons; nothing so injurious to good order in the prison. The analogy between this and other cases of public support is exceedingly strong; one may almost consider it a general principle, that those who live at the charge of the community shall, as far as they are able, give the community a compensation through their labour. But the

we have always found it more difficult to prove the existence of the facts, than to prove that they were mischievous and unjust.

question does not depend on mere abstract reasoning: The Stat. 19, Ch. 2, ch. 4, sec. 1. entitled an "Act for relief of poor prisoners, and setting them on work," speaks of persons committed for felony and other misdemeanors to the common gaol, who many times *perish before trial*; and then proceeds as to setting poor prisoners on work. Then Stat. 31. G. 3. 46. sec. 13. orders money to be raised for such prisoners of every description, as, being confined within the said gaols, or other places of confinement, *are not able to work*. A late Stat. (52. G. 3. c. 160.) orders parish relief to such debtors on mesne process in gaols, not county gaols, as are not able to support themselves; but says nothing of finding or compelling work. Could it be doubted, that if the Justices were to provide work, and the prisoner refused it, such debtors might, like any other parish paupers, be refused the relief mentioned by the statute? In all the above cases, the authority to insist on the prisoner's labour, as the condition and consideration of relief granted him, is, I think, either expressed or necessarily implied; and thus, viewing the subject, I think it was in the power of magistrates, prior to the late statute, to compel prisoners, subsisting in all or in part on public relief, to work at the tread-mill. The objection commonly made is, that prisoners prior to trial, are to be accounted innocent, and to be detained, merely that they may be secured for trial; to this the answer is obvious, that the labour is neither meant as a punishment or a disgrace, but simply as a compensation for the relief, at their own request, afforded them. Under the present Statute, I however have no doubt, that poor prisoners are entitled to public support, and that there can be no compulsory labour prior to trial. The two Statutes adverted to (19. Ch. 2. 4. and 21. G. 3.) are, as far as this subject is concerned, expressly repealed. The Legislature then had in contemplation, the existing power of magistrates, to order labour before trial, and having it in contemplation, repeals it; substituting (sec. 38.) a power of setting to labour *only sentenced persons*. The 13th rule too (p. 777) speaks of labour as connected with convicted prisoners, and sec. 37, speaks in general terms of persons committed for trial, as labouring with their own consent. In opposition to these clauses, I think it impossible to speak of implied power, or power founded on general reasoning or analogy. So strong, however, are the arguments in favour of a more extended authority in Justices of the Peace, that it is scarcely to be doubted, that Parliament, on a calm revision of the subject, would be willing to restore, in a more distinct manner than it has hitherto been enacted, a general discretion on the subject. Were this done, there is one observation I will venture to make, which is, that should some unfortunate association of ideas render the tread-mill a matter of ignominy to common feelings, an enlightened magistracy would scarcely compel an untried prisoner to a species of labour which would disgrace him in his own mind, and in that of the public.

'S. W. NICOLL.'

'York, August 27th, 1823.'

In consequence, we believe, of these opinions, the North Riding magistrates, on the 13th of October (the new bill commencing on the 1st of September), passed the following resolution—‘ That persons committed for trial, who are able to work, and have the means of employment offered them by the visiting Magistrates, by which they may earn their support, but who obstinately refuse to work, shall be allowed bread and water only.’

By this resolution they admit, of course, that the counsel are right in their interpretation of the present law; and that magistrates are forced to maintain prisoners before trial who do not choose to work. The magistrates say, however, by their resolution, that the food shall be of the plainest and humblest kind, bread and water; meaning, of course, that such prisoners should have a sufficient quantity of bread and water, or otherwise the evasion of the law would be in the highest degree mean and reprehensible. But it is impossible to suppose any such thing to be intended by gentlemen so highly respectable. Their intention is not that idle persons before trial shall starve, but that they shall have barely enough of the plainest food, for the support of life and health.

Mr Headlam has written a pamphlet, to show that the old law was very reasonable and proper; that it is quite right that prisoners before trial, who are able to support themselves, but unwilling to work, should be compelled to work, and at the tread-mill, or that all support should be refused them. We are entirely of an opposite opinion; and maintain, that it is neither legal nor expedient to *compel* prisoners before trial to work at the tread-mill, or at any species of labour, and that those who refuse to work should be supported upon a plain healthy diet. We impute no sort of blame to the magistrates of the North Riding, or to Mr Headlam, their Chairman. We have no doubt but that they thought their measures the wisest and the best for correcting evil, and that they adopted them in pursuance of what they thought to be their duty. Nor do we enter into any discussion with Mr Headlam, as Chairman of a Quarter-sessions, but as the writer of a pamphlet. It is only in his capacity of author that we have any thing to do with him. In answering the arguments of Mr Headlam, we shall notice, at the same time, a few other observations commonly resorted to in defence of a system which we believe to be extremely pernicious, and pregnant with the worst consequences; and so thinking, we contend against it, and in support of the law as it now stands.

We will not dispute with Mr Headlam, whether his exposi-

tion of the old law is right or wrong; because time cannot be more unprofitably employed than in hearing gentlemen, who are not lawyers, discuss points of law. We dare to say Mr Headlam knows as much of the laws of his country as magistrates in general do; but he will pardon us for believing, that for the moderate sum of three guineas, a much better opinion of what the law is now, or was then, can be purchased, than it is in the power of Mr Headlam, or of any county magistrate, to give for nothing—*Cui libet in arte sua credendum est*. It is concerning the expediency of such laws, and upon that point alone, that we are at issue with Mr Headlam; and do not let this gentleman suppose it to be any answer to our remarks to state what is done in the prison in which he is concerned, now the law is altered. The question is, whether he is right or wrong in his reasoning upon what the law *ought* to be; we wish to hold out such reasoning to public notice, and think it important it should be refuted,—doubly important, when it comes from an author, the leader of the Quorum, who may say with the pious Æneas,

— Quæque ipse miserrima vidi,

Et quorum pars magna fui.

If, in this discussion, we are forced to insist upon the plainest and most elementary truths, the fault is not with us, but with those who forget them; and who refuse to be any longer restrained by those principles which have hitherto been held to be as clear as they are important to human happiness.

To begin, then, with the nominative case and the verb,—we must remind those advocates for the tread-mill, *a parte ante* (for with the millers *a parte post* we have no quarrel), that it is one of the oldest maxims of common sense, common humanity, and common law, to consider every man as innocent till he is proved to be guilty; and not only to consider him to be innocent, but to treat him as if he was so; to exercise upon his case not merely a barren speculation, but one which produces practical effects, and which secures to a prisoner the treatment of an honest, unpunished man. Now, to compel prisoners before trial to work at the tread-mill, as the condition of their support, must, in a great number of instances, operate as a very severe punishment. A prisoner may be a tailor, a watchmaker, a book-binder, a printer, totally unaccustomed to any such species of labour. Such a man may be cast into jail at the end of August,* and not tried till the March following, is it no pu-

* Mr Headlam, as we understand him, would extend this labour to all poor prisoners before trial, in gaols which are delivered twice a year at the Assizes, as well to Houses of Correction delivered four

nishment to such a man to walk up hill like a turnspit dog, in an infamous machine, for six months? and yet there are gentlemen who suppose that the common people do not consider this as punishment!—that the gayest and most joyous of human beings is a treader, untried by a jury of his countrymen, in the fifth month of lifting up the leg, and striving against the law of gravity, supported by the glorious information which he receives from the turnkey, that he has all the time been grinding flour on the other side of the wall! If this sort of exercise, necessarily painful to sedentary persons, is agreeable to persons accustomed to labour, then make it voluntary—give the prisoners their choice—give more money and more dict to those who can and will labour at the tread-mill, if the tread-mill (now so dear to magistrates) is a proper punishment for untried prisoners. The position we are contending against is, that all poor prisoners who are able to work, should be put to work upon the tread-mill, the inevitable consequence of which practice is, a repetition of gross injustice by the infliction of undeserved punishment; for punishment, and severe punishment to such persons as we have enumerated, we must consider it to be.

But punishments are not merely to be estimated by pain to the limbs, but by the feelings of the mind. Gentlemen punishers are sometimes apt to forget that the common people have any mental feelings at all, and think, if body and belly are attended to, that persons under a certain income have no right to likes and dislikes. The labour of the tread-mill is irksome, dull, monotonous, and disgusting to the last degree. A man does not see his work, does not know what he is doing, what progress he is making; there is no room for art, contrivance, ingenuity and superior skill—all which are the cheering circumstances of human labour. The husbandman sees the field gradually subdued by the plough; the smith beats the rude mass of iron by degrees into its meditated shape, and gives it its meditated utility; the tailor accommodates his parallelogram of cloth to the lumps and bumps of the human body, and, holding it up, exclaims, ‘this will contain the lower moiety of an human being;’ But the treader does nothing but tread; he sees no change of objects, admires no new relation of parts, imparts no new qualities to matter, and gives to it no new arrangements and positions; or if he does, he sees and knows it not, but is turned at once from a rational being,

times a year at the Sessions; *i. e.* not extend the labour, but refuse all support to those who refuse the labour—a distinction, but not a difference.

by a justice of peace, into a *primum mobile*, and put upon a level with a rush of water or a puff of steam. It is impossible to get gentlemen to attend to the distinction between raw and roasted prisoners, without which all discussion on prisoners is perfectly ridiculous. Nothing can be more excellent than this kind of labour for persons to whom you mean to make labour as irksome as possible; but for this very reason, it is the labour to which an untried prisoner ought not to be put.

It is extremely uncandid to say that a man is obstinately and incorrigibly idle, because he will not submit to such tiresome and detestable labour as that of the tread-mill. It is an old feeling among Englishmen, that there is a difference between tried and untried persons, between accused and convicted persons. These old opinions were in fashion before this new magistrate's play-thing was invented; and we are convinced that many industrious persons, feeling that they have not had their trial, and disgusted with the nature of the labour, would refuse to work at the tread-mill, who would not be averse to join in any common and fair occupation. Mr Headlam says, that labour may be a privilege as well as a punishment. So may taking physic be a privilege, in cases where it is asked for as a charitable relief, but not if it is stuffed down a man's throat whether he say yea or nay. Certainly labour is not necessarily a punishment: nobody has said it is so; but Mr Headlam's labour is a punishment, because it is irksome, infamous, unasked-for and undeserved. This gentleman, however, observes, that committed persons *have offended the laws*; and the sentiment expressed in these words is the true key to his pamphlet and his system,—a perpetual tendency to confound the convicted and the accused.

‘With respect to those sentenced to labour as a punishment, I apprehend there is no difference of opinion. All are agreed that it is a great defect in any prison where such convicts are unemployed. But as to all other prisoners, whether debtors, *persons committed for trial*, or convicts not sentenced to hard labour, if they have no means of subsisting themselves, and must, if discharged, either labour for their livelihood or apply for parochial relief; it seems unfair to society at large, and especially to those who maintain themselves by honest industry, that those who, *by offending the laws, have subjected themselves to imprisonment*, should be lodged, and clothed, and fed, without being called upon for the same exertions which others have to use to obtain such advantages.’—*Headlam*, p. 23, 24.

Now, nothing can be more unfair, than to say that such men have offended the laws. That is the very question to be tried, whether they have offended the laws or not? It is merely because this little circumstance is taken for granted, that we have any quarrel at all with Mr Headlam and his school.

‘I can make,’ says Mr Headlam, ‘every delicate consideration for the rare case of a person perfectly innocent being committed to gaol on suspicion of crime. Such person is deservedly an object of compassion, for having fallen under circumstances which subject him to be charged with crime, and, consequently, to be deprived of his liberty: but if he has been in the habit of labouring for his bread before his commitment, there does not appear to be any addition to his misfortune in being called upon to work for his subsistence in prison.’—*Headlam*, p. 24.

And yet Mr Headlam describes this very punishment, which does not add to the misfortunes of an innocent man, to be *generally disagreeable, to be dull, irksome, to excite a strong dislike, to be a dull monotonous labour, to be a contrivance which connects the idea of discomfort with a jail*, p. 36. So that Mr Headlam looks upon it to be no increase of an innocent man’s misfortunes, to be constantly employed upon a dull, irksome, monotonous labour, which excites a strong dislike, and connects the idea of discomfort with a jail. We cannot stop, or stoop to consider, whether beating hemp is more or less dignified than working in a mill. The simple rule is this, whatever felons do, men not yet proved to be felons should not be compelled to do. It is of no use to look into laws become obsolete by alteration of manners. For these fifty years past, and before the invention of tread-mills, untried men were not put upon felons’ work; But with the mill came in the mischief. Mr Headlam asks, how can men be employed upon the ancient trades in a prison?—certainly they cannot; but are human occupations so few, and is the ingenuity of magistrates and jailors so limited, that no occupations can be found for innocent men, but those which are shameful and odious? Does Mr Headlam really believe, that grown up and baptized persons are to be satisfied with such arguments, or repelled by such difficulties?

It is some compensation to an acquitted person, that the labour he has gone through unjustly in jail, has taught him some trade, given him an insight into some species of labour in which he may hereafter improve himself; but Mr Headlam’s prisoner, after a verdict of acquittal, has learnt no other art than that of walking up hill; he has nothing to remember or recompense him but three months of undeserved and unprofitable torment. The verdict of the jury has pronounced him steady in his morals; the conduct of the justices has made him stiff in his joints.

But it is next contended by some persons, that the poor prisoner is not compelled to work, because he has the alternative of starving, if he refuses to work. You take up a poor man upon suspicion, deprive him of all his usual methods of getting

his livelihood, and then giving him the first view of the treadmill, he of the Quorum thus addresses him—‘ My amiable friend, we use no compulsion with untried prisoners. You are free as air till you are found guilty; only it is my duty to inform you, as you have no money of your own, that the disposition to eat and drink which you have allowed you sometimes feel, and upon which I do not mean to cast any degree of censure, cannot possibly be gratified but by constant grinding in this machine. It has its inconveniences, I admit; but balance them against the total want of meat and drink, and decide for yourself. You are perfectly at liberty to make your choice, and I by no means wish to influence your judgment.’ But Mr Nicoll has a curious remedy for all this miserable tyranny; he says it is not meant as a punishment. But if I am conscious that I never have committed the offence, certain that I have never been found guilty of it, and find myself tost into the middle of an infernal machine, by the folly of those who do not know how to use the power intrusted to them, is it any consolation to me to be told, that it is not *intended* as a punishment, that it is a lucubration of justices, a new theory of prison-discipline, a valuable county experiment going on at the expense of my arms, legs, back, feelings, character and rights? We must tie those prægustant punishers down by one question. Do you mean to inflict any degree of punishment upon persons merely for being suspected?—or at least any other degree of punishment than that, without which criminal justice cannot exist, detention? If you do, why let any one out upon bail? For the question between us is not, how suspected persons are to be treated, and whether or not they are to be punished; but how suspected *poor* persons are to be treated, who want county support in prison. If to be suspected is deserving of punishment, then no man ought to be let out upon bail, but *every one* should be kept grinding from accusation to trial; and so ought *all* prisoners to be treated for offences not bailable, and who do not want the county allowance. And yet no grinding philosopher contends, that all suspected persons should be put in the mill,—but only those who are too poor to find bail, or buy provisions!

If there are, according to the doctrines of the millers, to be two punishments, the first for being suspected of committing the offence, and the second for committing it, there should be two trials as well as two punishments. Is the man really suspected, or do his accusers only pretend to suspect him? Are the suspects of better character than the suspected? Is it a light suspicion which may be atoned for by grinding a peck a day?

Is it a bushel case? or is it one deeply criminal, which requires the flour to be ground fine enough for French rolls? But we must put an end to such absurdities.

It is very untruly stated, that a prisoner, before trial, not compelled to work, and kept upon a plain diet, merely sufficient to maintain him in health, is better off than he was previous to his accusation; and it is asked, with a triumphant leer, whether the situation of any man ought to be improved, merely because he has become an object of suspicion to his fellow-creatures? This happy and fortunate man, however, is separated from his wife and family; his liberty is taken away; he is confined within four walls; he has the reflection that his family are existing upon a precarious parish support, that his little trade and property are wasting, that his character is become infamous, that he has incurred ruin by the malice of others, or by his own crimes, that in a few weeks he is to forfeit his life, or be banished from every thing he loves upon earth. This is the improved situation, and the redundant happiness which requires the penal circumvolutions of the Justice's mill to cut off so unjust a balance of gratification, and bring him a little nearer to what he was before imprisonment and accusation. It would be just as reasonable to say, that an idle man in a fever is better off than an healthy man who is well and earns his bread. He may be better off if you look to the idleness alone, though that is doubtful; but is he better off if all the aches, agonies, disturbances, deliriums, and the nearness to death are added to the lot?

Mr Headlam's panacea for all prisoners before trial, is the tread-mill: we beg his pardon—for all *poor* prisoners; but a man who is about to be tried for his life, often wants all his leisure time to reflect upon his defence. The exertions of every man within the walls of a prison are necessarily crippled and impaired. What can a prisoner answer who is taken hot and reeking from the tread-mill, and asked what he has to say in his defence; his answer naturally is—'I have been grinding corn instead of thinking of my defence, and have never been allowed the proper leisure to think of protecting my character and my life.' This is a very strong feature of cruelty and tyranny in the mill. We ought to be sure that every man has had the fullest leisure to prepare for his defence, that his mind and body have not been harassed by vexatious and compulsory employment. The public purchase, at a great price, legal accuracy, and legal talent, to accuse a man who has not perhaps one shilling to spend upon his defence. It is atrocious cruelty not to leave him full leisure to write his scarcely legible letters to his witnesses, and to use all the melancholy and feeble

means which suspected poverty can employ for its defence against the long and heavy arm of power.

A prisoner, upon the system recommended by Mr Headlam, is committed, perhaps at the end of August, and brought to trial the March following; and, after all, the bill is either thrown out by the grand jury, or the prisoner is fully acquitted; and it has been found, we believe, by actual returns, that, of committed prisoners, about a half are actually acquitted, or their accusations dismissed by the grand jury. This may be very true, say the advocates of this system, but we know that many men who are acquitted are guilty. They escape through some mistaken lenity of the law, or some corruption of evidence; and as they have not had their deserved punishment after trial, we are not sorry they had it before. The English law says, better many guilty escape, than that one innocent man perish; but the humane notions of the mill are bottomed upon the principle, that all had better be punished, lest any escape. They evince a total mistrust in the jurisprudence of the country, and say the results of trial are so uncertain, that it is better to punish all the prisoners before they come into Court. Mr Headlam forgets that general rules are not beneficial in each individual instance, but beneficial upon the whole; that they are preserved because they do much more good than harm, though in some particular instances they do more harm than good; yet no respectable man violates them on that account, but holds them sacred for the great balance of advantage they confer upon mankind. It is one of the greatest crimes, for instance, to take away the life of a man; yet there are many men whose death would be a good to society, rather than an evil. Every good man respects the property of others; yet to take from a worthless miser, and to give it to a virtuous man in distress, would be an advantage. Sensible men are never staggered when they see the exception. They know the importance of the rule, and protect it most eagerly at the very moment when it is doing more harm than good. The plain rule of justice is, that no man should be punished till he is found guilty; but because Mr Headlam occasionally sees a bad man acquitted under this rule, and sent out unpunished upon the world, he forgets all the general good and safety of the principle is debauched by the exception, and applauds and advocates a system of prison-discipline which renders injustice certain, in order to prevent it from being occasional.

The meaning of all preliminary imprisonment is, that the accused person should be forthcoming at the time of trial. It was never intended as a punishment. Bail is a far better invention than imprisonment, in cases where the heavy punish-

ment of the offence would not induce the accused person to run away from any bail. Now, let us see the enormous difference this new style of punishment makes between two men, whose only difference is, that one is poor and the other rich. A and B are accused of some bailable offence. A has no bail to offer, and no money to support himself in prison, and takes, therefore his four or five months in the tread-mill. B gives bail, appears at his trial, and both are sentenced to two months imprisonment. In this case, the one suffers three times as much as the other, for the same offence: But suppose A is acquitted and B found guilty,—the innocent man has then laboured in the tread-mill five months because he was poor, and the guilty man labours two months because he was rich. We are aware that there must be, even without the tread-mill, a great and an inevitable difference between men (*in pari delicto*), some of whom can give bail, and some not; but that difference becomes infinitely more bitter and objectionable, in proportion as detention before trial assumes the character of severe and degrading punishment.

If motion in the tread-mill was otherwise as fascinating as millers describe it to be, still the mere degradation of the punishment is enough to revolt every feeling of an untried person. It is a punishment consecrated to convicted felons—and it has every character that such punishment ought to have. An untried person feels at once, in getting into the mill, that he is put to the labour of the guilty; that a mode of employment has been selected for him, which renders him infamous before a single fact or argument has been advanced to establish his guilt. If men are put into the tread-mill before trial, it is literally of no sort of consequence whether they are acquitted or not. Acquittal does not shelter them from punishment, for they have already been punished. It does not screen them from infamy, for they have already been treated as if they were infamous; and the association of the tread-mill and crimes is not to be got over. This machine flings all the power of Juries into the hands of the magistrates, and makes every simple commitment more terrible than a conviction; for, in a conviction, the magistrate considers whether the offence has been committed or not, and does not send the prisoner to jail unless he think him guilty; but in a simple commitment, a man is not sent to jail because the magistrate is convinced of his guilt, but because he thinks a fair question may be made to a Jury whether the accused person is guilty or not. Still, however, the convicted and the suspected both go to the same mill; and he who is there upon the doubt, grinds as much flour as the other whose guilt is established by a full examination of conflicting evidence.

Where is the necessity for such a violation of common sense and common justice? Nobody asks for the idle prisoner before trial more than a very plain and moderate diet. Offer him, if you please, some labour which is less irksome, and less infamous than the tread-mill,—bribe him by improved diet, and a share of the earnings; there will not be three men out of an hundred who would refuse such an invitation, and spurn at such an improvement of their condition. A little humane attention and persuasion, among men who ought, upon every principle of justice, to be considered as innocent, we should have thought much more consonant to English justice, and to the feelings of English magistrates, than the Rack and Wheel of Cubitt.*

Prison discipline is an object of considerable importance; but the common rights of mankind, and the common principles of justice, and humanity, and liberty, are of greater consequence even than prison discipline. Right and wrong, innocence and guilt, must not be confounded, that a prison-fancying Justice may bring his friend into the prison and say, ‘Look what a ‘spectacle of order, silence and decorum we have established here! no idleness, all grinding!—we produce a penny roll ‘every second—our prison is supposed to be the best regulated ‘prison in England,—Cubitt is making us a new wheel of forty ‘felon power,—look how white the flour is, all done by untried ‘prisoners—as innocent as lambs!’ If prison discipline is to supersede every other consideration, why are pennyless prisoners alone to be put into the mill before trial. If idleness in jails is so pernicious, why not put all prisoners in the tread-mill, the rich as well as those who are unable to support themselves? Why are the debtors left out? If fixed principles are to be given up, and prisons turned into a plaything for magistrates, nothing can be more unpicturesque than to see one half of the prisoners looking on, talking, gaping, and idling, while their poorer brethren are grinding for dinners and suppers.

It is a very weak argument to talk of the prisoners earning their support, and the expense to a county of maintaining prisoners before trial,—as if any rational man could ever expect to gain a farthing by an expensive mill, where felons are the moving power, and justices the superintendants, or as if such a trade must not necessarily be carried on at a great loss. If it were just and proper that prisoners, before trial, should be condemned to the mill, it would be of no consequence whether the

* It is singular enough, that we use these observations in reviewing the pamphlet and system of a gentleman remarkable for the urbanity of his manners, and the mildness and humanity of his disposition.

county gained or lost by the trade. But the injustice of the practice can never be defended by its economy; and the fact is, that it increases expenditure, while it violates principle. We are aware, that by leaving out repairs, alterations, and first costs, and a number of little particulars, a very neat account, signed by the jailor, may be made up, which shall make the mill a miraculous combination of mercantile speculation and moral improvement; but we are too old for all this. We accuse nobody of intentional misrepresentation. This is quite out of the question with persons so highly respectable; but men are constantly misled by the spirit of system, and egregiously deceive themselves—even very good and sensible men.

Mr Headlam compares the case of a prisoner before trial, claiming support, to that of a pauper claiming relief from his parish. But it seems to us that no two cases can be more dissimilar. The prisoner was no pauper before you took him up, and deprived him of his customers, tools, and market. It is by your act and deed that he is fallen into a state of pauperism; and nothing can be more preposterous, than first to make a man a pauper, and then to punish him for being so. It is true, that the apprehension and detention of the prisoner were necessary for the purposes of criminal justice; but the consequences arising from this necessary act cannot yet be imputed to the prisoner. He has brought it upon himself, it will be urged; but that remains to be seen, and will not be known till he is tried; and till it is known you have no right to take it for granted, and to punish him as if it were proved.

There seems to be in the minds of some gentlemen a notion, that when once a person is in prison, it is of little consequence how he is treated afterwards. The tyranny which prevailed, of putting a person in a particular dress before trial, now abolished by act of Parliament, was justified by this train of reasoning, the man has been rendered infamous by imprisonment. He cannot be rendered more so, dress him as you will. His character is not rendered worse by the tread-mill, than it is by being sent to the place where the tread-mill is at work. The substance of this way of thinking is, that when a fellow-creature is in the frying pan, there is no harm in pushing him into the fire; that a little more misery—a little more infamy—a few more links, are of no sort of consequence in a prison-life. If this monstrous style of reasoning extended to hospitals as well as prisons, there would be no harm in breaking the small bone of a man's leg, because the large one was fractured, or in peppering with small shot a person who was wounded with a cannon-ball. The principle is, because a man is very wretched, there

is no harm in making him a little more so. The steady answer to all this is, that a man is imprisoned, before trial, *solely* for the purpose of securing his appearance at his trial; and that no punishment nor privation, not clearly and candidly necessary for that purpose, should be inflicted upon him. I keep you in prison, because criminal justice would be defeated by your flight, if I did not; but criminal justice can go on very well without degrading you to hard and infamous labour, or denying you any reasonable gratification. For these reasons, the first of those acts is just, the rest are mere tyranny.

Mr Nicoll in his opinion, tells us, that he has no doubt Parliament would amend the bill, if the omission was stated to them. We, on the contrary, have no manner of doubt that Parliament would treat such a petition with the contempt it deserved. Mr Peel is much too enlightened and sensible to give any countenance to such a great and glaring error. In this case,—and we wish it were a more frequent one—the wisdom comes from within, and the error from without the walls of Parliament.

A prisoner before trial who can support himself, ought to be allowed every fair and rational enjoyment which he can purchase, not incompatible with prison discipline. He should be allowed to buy ale or wine in moderation,—to use tobacco, or any thing else he can pay for within the above-mentioned limits. If he cannot support himself, and declines work, then he should be supported upon a very plain, but still a plentiful diet (something better, we think, than bread and water); and all prisoners before trial should be *allowed* to work. By a liberal share of earnings (or rather by rewards, for there would be no earnings), and also by an improved diet, and in the hands of humane magistrates,* there would soon appear to be no necessity for appealing to the tread-mill till trial was over.

This tread-mill, after trial, is certainly a very excellent method of punishment, as far as we are yet acquainted with its effects. We think at present, however, it is a little abused; and hereafter it is our intention to express our opinion upon the limits to which it ought to be confined. Upon this point, however, we do not much differ from Mr Headlam; although, in his remarks on the treatment of prisoners before trial, we think he has made a very serious mistake, and has attempted

* All magistrates should remember, that nothing is more easy to a person entrusted with power than to convince himself it is his duty to treat his fellow-creatures with severity and rigour,—and then to persuade himself that he is doing it very reluctantly, and contrary to his real feeling.

(without knowing what he was doing, and meaning, we are persuaded, nothing but what was honest and just) to pluck up one of the ancient landmarks of human justice. *

* We hope this article will conciliate our old friend Mr Roscoe; who is very angry with us for some of our former lucubrations on prison discipline,—and, above all, because we are not grave enough for him. The difference is thus stated:—Six ducks are stolen. Mr Roscoe would commit the man to prison for six weeks perhaps,—reason with him, argue with him, give him tracts, send clergymen to him, work him gently at some useful trade, and try to turn him from the habit of stealing poultry. *We* would keep him hard at work twelve hours every day at the tread-mill, feed him only so as not to impair his health, and then give him as much of Mr Roscoe's system as was compatible with our own; and we think our method would diminish the number of duck-stealers more effectually than that of the historian of Leo X. The primary duck-stealer would, we think, be as effectually deterred from repeating the offence by the terror of our imprisonment, as by the excellence of Mr Roscoe's education—and, what is of infinitely greater consequence, innumerable duck-stealers would be prevented. Because punishment does not annihilate crime, it is folly to say it does not lessen it. It did not stop the murder of Mrs Donatt; but how many Mrs Donatts has it kept alive! When we recommend severity, we recommend, of course, that degree of severity which will not excite compassion for the sufferer, and lessen the horror of the crime. This is why we do not recommend torture and amputation of limbs. When a man has been proved to have committed a crime, it is expedient that society should make use of that man for the diminution of crime: he belongs to them for that purpose. Our primary duty, in such a case, is so to treat the culprit that many other persons may be rendered better, or prevented from being worse by dread of the same treatment; and, making this the principal object, to combine with it as much as possible the improvement of the individual. The ruffian who killed Mr Mumford was hung within forty-eight hours. Upon Mr Roscoe's principles, this was wrong; for it certainly was not the way to reclaim the man:—We say, on the contrary, the object was to do any thing with the man which would render murders less frequent, and that the conversion of the man was a mere trifle compared to this. His death probably prevented the necessity of reclaiming a dozen murderers. That death will not indeed prevent all murders in that county; but many who have seen it, and many who have heard of it, will swallow their revenge from the dread of being hanged. Mr Roscoe is very severe upon our style; but poor dear Mr Roscoe should remember that men have different tastes, and different methods of going to work. We feel these matters as deeply as he does. But why so cross upon this or any other subject?

ART. III. 1. *Draft of proposed Bill for repealing several Acts relating to Combinations of Workmen, and for more effectually protecting Trade, and for settling Disputes between Masters and their Work-people.* Ordered by the House of Commons to be printed, 22d April, 1823.

2. *Considerations on Emigration.* London, 1822.

FROM the reign of Edward I. down to a very recent period, it has been the practice of the Legislature to interfere respecting the stipulations in the contract of wages between masters and servants: And as its deliberations have been, in most cases, guided by the advice of the masters, it was natural that it should interfere rather to promote their particular interests, than to treat both parties with even-handed and impartial justice. But the gradual advance of civilization, and the dissemination of sounder and more enlarged principles of public economy, having impressed all classes with a conviction of the general impolicy of such interference, it is now rarely practised. The experience of nearly five hundred years has shown, that while every attempt to set a *maximum* on the price of labour is oppressive and injurious to the workmen, it is of no real advantage to their employers: for it has been found, that the workman has invariably become more persevering, sober, and industrious, according as his freedom has been extended, and as he has been relieved from the vexatious restraints to which he was formerly subjected.

But, though the Legislature no longer interferes to dictate the precise terms on which masters shall buy, and workmen sell their labour, a set of laws have of late been much extended, and are now very frequently acted upon, by which workmen are severely punished for *combining together* to raise their wages, or to oppose their reduction. These laws, which seem to us to be in the highest degree partial, oppressive and unjust, had their origin in a dark and barbarous period. The dreadful plague that desolated England, in common with most other countries of Europe, in 1348 and 1349, having destroyed great numbers of the labouring poor, a greater competition took place for the services of those who survived, who, in consequence, obtained much higher wages. Parliament, however, instead of leaving this temporary rise of wages, to which the poor had an unquestionable right, to be reduced by the increase of population it must infallibly have occasioned, passed, in 1350, the famous act (25 Edward III.) for regulating wages. By this statute, labourers were obliged to serve for such wages as were

common in the districts in which they resided previously to the pestilence. But as this gave rise to a great deal of cavilling, a statute was passed two years after, fixing the specific amount of the wages to be given to reapers, mowers, haymakers, thrashers, &c., and to the more common and important classes of artificers. * A variety of subsequent acts were passed, to enforce compliance with the regulations in this statute of wages, of the spirit of which some idea may be formed, from the fact of its having been made *felony*, by an act passed in 1425 (3 Henry VI. cap. 1.), for masons to confederate or combine together to raise their wages above the statutory rate. And though this brutal and barbarous law is no longer acted upon, it is still suffered to disgrace the Statute-book, and may be considered as the parent stock—*fortes creantur fortibus*—from which, through a long line of ancestors, the existing statute against combinations has been derived.

This statute (39th and 40th Geo. III. cap. 106.), after declaring all combinations to obtain an advance of wages to be unlawful, goes on to enact, that any workman who enters into a combination, either verbal or in writing, to obtain an advance of wages, to lessen the hours or time of working, to decrease the quantity of work, to *persuade*, intimidate, or, by money or otherwise, endeavour to prevail on any other workman not to accept employment; or who shall, for the purpose of obtaining an advance of wages, endeavour to intimidate or prevail upon any person to leave his employment, or to prevent any person employing him; or who, being hired, shall, without any just or reasonable cause, refuse to work with any other workman; such workman shall, on the oath or oaths of one or more credible witnesses, before any two Justices of the Peace, within three calendar months after the offence has been committed, be committed to, and confined in the COMMON GAOL within their jurisdiction, for any time not exceeding THREE CALENDAR MONTHS; or, at the discretion of such Justices, shall be committed to some house of correction, within the same jurisdiction, there to remain, and be kept at hard labour, for any time not exceeding TWO CALENDAR MONTHS!

The extreme severity of this enactment must strike every one. Justices of the Peace belong to the order of masters; and, however respectable individually, generally possess a full share of their particular feelings and prejudices. To invest two of them with the power of imprisoning workmen for three months, *without the intervention of a jury*, is certainly entrusting them with an au-

thority very liable to be abused, and which, if it is to be exercised at all, ought to be placed in the hands of persons less likely to act under a bias. It is true, the workmen can appeal to the Quarter-sessions; but as this is only an appeal from one set of Justices to another, it cannot be of much importance. There are a variety of other clauses, discharging all workmen from attending any meeting for the purpose of combining, from contributing to defray the expenses incurred by persons acting contrary to this act, and compelling *offenders* to give evidence, &c. &c. under the above-mentioned penalties.

A very strong feeling has been spreading of late years, not only among the workmen, but also among the more intelligent and liberal portion of the masters, that the attempts to enforce the provisions of the Combination Act have done infinitely more harm than good. And in unison with this feeling, in the course of last Session, Mr Moore, member for Coventry, introduced the bill of which the title is prefixed to this article, into the House of Commons, for the repeal of the Combination Act, and of a variety of other acts regulating wages in particular trades. Instead, however, of confining his Bill to the simple repeal of the acts in question, and leaving to masters and workmen to enter into any kind of contract they pleased, Mr Moore has chosen to load it with a multitude of clauses which go to regulate the mode in which almost every possible transaction that can take place between the two parties shall be conducted! These clauses are exceedingly confused and perplexed; many of them seem also to be in the highest degree preposterous and absurd; and while their adoption would be productive of more litigation than ever, there is no reason to think that they would tend in any considerable degree to lessen the irritation and disgust occasioned by the existing law. It is unnecessary, however, to enter into any particulars respecting the regulating clauses in the bill before us, as there can be no doubt, from what took place in the House when the discussion of the bill was postponed till next Session, that they will be rejected. We are most anxious, however, that that portion of the bill which goes to repeal the laws against combinations should receive the sanction of the Legislature. And we shall avail ourselves of this opportunity to lay before our readers the reasons on which we found our opinion, that such repeal would be of the greatest possible advantage to all classes of the community.

The observations we are now about to offer on the Combination Act, are meant to apply exclusively to the justice and policy of attempting to prevent *voluntary* combinations among workmen. That all attempts to extend combinations by violent means, or by one set of workmen endeavouring forcible

bly to hinder others from working at any rate of wages they may choose to accept, should be immediately repressed by suitable punishment, cannot admit of a moment's doubt or hesitation. But there is a wide difference between interfering to prevent workmen from violently obstructing the business of their neighbours, and interfering to suppress any *voluntary* agreement they may have made amongst themselves. The former is an obvious and direct breach of the peace; the latter seems a mere harmless exercise of that freedom of action to which every man is naturally entitled. Whatever may be the ultimate consequences of a voluntary combination, there is plainly nothing either *unjust* or *immoral* in a number of individuals agreeing together not to sell their labour—if they can help it—below a certain price, or to work above a certain time each day.

It shall, however, be our business to show, that the *consequences* of combinations are by no means such as to warrant their prevention by law. Wages, like every thing else, ought always to be left to be regulated by the fair and free competition of the parties in the market, and ought never to be controlled by the interference of the Legislator. 'The property,' says Dr Smith, 'which every man has in his own labour, as it is the original foundation of all other property, so it is the most sacred and inviolable. *The patrimony of a poor man lies in the strength and dexterity of his hands; and to hinder him from employing this strength and dexterity in what manner he thinks proper, without injury to his neighbours, is a plain violation of this most sacred property.*' (I. p. 188.) But it is obviously false to affirm that workmen are allowed to dispose of their labour in any way they please, so long as they are prevented from concerting with each other the terms on which they are to sell it. Capacity to labour is to the poor man what stock is to the capitalist. But you would not prevent a hundred or a thousand capitalists from forming themselves into a company, or *combination*, who should take all their measures in common, and dispose of their property as they might, in their collective capacity, judge most advantageous for their interests:—and why then should not a hundred or a thousand labourers be allowed to do the same by *their stock*? Of all the species of property which a man can possess, the faculties of his mind and the powers of his body are most particularly and emphatically his own: and to fetter him in the mode in which he is to exercise or dispose of these faculties and powers, is a manifest and flagrant encroachment on the most inviolable of all rights, and can be justified only by the most urgent and overwhelming necessity.

It is easy, however, to show that, in point of fact, no such

necessity ever did or ever can exist. The wages of any set of workmen who enter into a combination for the purpose of raising them, must be either *below* the *natural* and *proper* rate of wages in the particular branch of industry to which they belong, or they must be *coincident with that rate*,—or *above it*. Now, it is clear that, in the first case, or when wages have been depressed below their natural level, the claim of the workmen for an advance is highly proper, fair, and reasonable; and it would obviously be the extreme of injustice and oppression to prevent them adopting any measure, *not injurious to the just rights of others*, which they might think best fitted to render their claim effectual. But a voluntary combination among workmen is certainly in no respect injurious to any of the rights of their masters. It would be a contradiction and an absurdity to contend that masters have any right or title whatever to the services of free workmen, in the event of the latter not choosing to accept the price offered them for their labour; and as the very existence of a combination to procure a rise of wages shows that they have not so chosen, and is a proof of the want of all concord and agreement between the parties, so it is also a proof that the *workmen are fairly entitled to enter into it*; and that, however injurious their proceedings may be to themselves, they cannot possibly encroach on the privileges or rights of others. Not only, therefore, is a combination harmless in itself, but when it is entered into for the purpose of raising wages that have been unduly depressed, its object is most proper and desirable. No master ever willingly consents to raise wages; and the claim either of one or of a few individuals for an advance of wages is sure to be disregarded, so long as their fellows continue to work at the old rates. It is only when the whole, or the greater part of the workmen belonging to a particular master or department of industry combine together, or when they act in that simultaneous manner which is in every respect equivalent to a combination, and refuse to continue to work without receiving an increase of wages, that it becomes the interest of the masters to comply with their demand. And hence it is obvious, that without the existence either of an *open and avowed*, or of a *tacit and real combination*, workmen would *never* be able to obtain a rise of wages by their own exertions, but would be left entirely dependent on the competition of their masters. *

When workmen are allowed to combine, as in the case supposed, to raise wages that have been unduly reduced, the masters cannot expect to carry on their business by the aid of workmen obtained from other employments; for, by the hypothesis, the rate of wages, in the department in which the combination has taken place, has been reduced below its proper level, and, of

course, none would leave others to enter into it. Neither could they expect that the workmen would abandon the combination, and return to their old employment at the former rate of wages; for though this might probably be the case with a small number, the majority would naturally betake themselves, in preference, to those businesses in which labour bore a higher price. These are plain and obvious consequences of a relative depression in the wages of any class of workmen; and as it could require no peculiar sagacity or penetration in the masters to discover them, and as they would also *feel* that their capitals could not be rendered available for the production of a profit or revenue without the labour of the workmen, the probability is, that they would, in general, be disposed to raise wages to their proper level soon after the formation of the combination, rather than defer taking a step which, it is plain, they must take in the end, until they had been compelled to do so from their inability otherwise to obtain the means of setting their capitals in motion. Every attempt to prevent combination in such cases as this is neither more nor less than an attempt to hinder the workmen from making use of *the only means* by which their wages can be speedily and effectually raised to their *just level*. It is committing injustice in behalf of the strong, at the expense of the weaker party!

We admit that the *object* of the *second* class of voluntary combinations, or of those in which the wages of the combining workmen are already equal to or above their natural and proper rate, is improper and unreasonable. Still, however, it is very easy to demonstrate, that there is no more cause for the interference of the Legislature in this case, than in the former. There is no good reason why workmen should not, like the possessors of every other valuable and desirable article, be allowed to set whatever price they please upon the labour they have to dispose of. The apprehensions formerly so prevalent about the injurious effects of *forestalling* and *regrating*, and the forming of combinations to raise the price of the necessaries of life, have now almost entirely vanished; and experience has invariably shown, that every market has been better supplied with every species of useful and desirable produce, and at a much less expense, according as legislative interference has been withdrawn, and a greater freedom of action allowed to the dealers and producers. And what ground is there for supposing that the relieving of workmen from restraint, and allowing them to concert measures in common, should have a different effect? The poorest tyro in economical science would not hesitate to assert, that all apprehension of famine, or even of a stinted supply of corn, from a combination of corn dealers, or of bakers,

to raise the price of corn or bread: For he would feel assured, that there were a hundred chances to one that no such combination would ever be generally entered into; and that supposing it were, the moment prices had been raised ever so little above their natural rate, it would become the interest of a large body of the combiners to secede from the combination, and to throw their stocks on the market. But, if we can thus securely trust the supply of the most necessary articles to the unfettered competition of a comparatively small body of masters,—can any thing be more childish than to fear any bad consequences from leaving the market for labour to be supplied by the unfettered competition of the workmen?—a body in which, because of its being infinitely more numerous, combination must be infinitely more difficult than among the masters. Assuming, however, that the mass of workmen occasionally combine together, it appears absurd in the last degree to suppose that their combinations should ever enable them to obtain from their masters more than a due share of the produce of their labour. That the masters would resist a demand for any greater portion, is certain; and the slightest glance at the relative condition of the parties must satisfy every one that they cannot fail to succeed in defeating it. The workmen always suffer more from a *strike* than their masters. It is indeed true, as Dr Smith has observed, that in the *long run*, they are as necessary to their masters as their masters are to them; but this necessity is plainly far from being so immediate. The stock and credit of the master is in almost every instance infinitely greater than the stock and credit of his labourers; and he is, therefore, able to maintain himself for a much longer time without their labour, than they can maintain themselves without his wages. In all old settled and fully peopled countries, wages are, unfortunately, seldom or never so high as to enable labourers to accumulate any considerable stock; and the moment their scanty funds are exhausted, there is necessarily an end of the combination,—and instead of dictating terms, they must accept those that are offered to them.

But this is not all.—When workmen enter into a combination to enforce an unreasonable demand, or to raise wages that are *already up to the common level*, it is evident they *must lose* and can gain nothing by entering into an employment to which they have not been bred; while it is equally evident that a very small extra allowance will be sufficient to entice a large supply of other labourers to the business they have left. All the great departments of industry have so many and so closely allied branches, that a workman who is instructed in any one of them, can, without much training, readily

and without difficulty, apply himself to the others: And thus the workmen who had entered into the combination would not only fail of their object, and be obliged to return to their work, but, owing to the influx of other labourers into the business during the period of the *strike*, they would be compelled to accept of a lower rate of wages than they had previously enjoyed.

For these reasons, we think it is impossible that any one who will calmly consider the subject can resist coming to the conclusion, that a combination for an improper object, or to raise wages above their proper level, must *cure itself*—that it must necessarily bring its own chastisement along with it:—And if the attention of workmen was not distracted by the interference of Government, they could not but perceive the close and intimate connexion between the offence and the punishment; and a very short experience would be sufficient to satisfy them of the mischiefs attending combinations to procure the gratification of an unreasonable demand, and would effectually hinder their wantonly engaging in them.

This statement is sufficient to show the fallacy of the opinion of those who contend, that if the combination laws were repealed, workmen would be every now and then leaving their employment, and that they would become insolent and overbearing. The experience of the United States is also conclusive on this point. No combination laws exist in that Republic; and yet, although the high rate of wages puts it into the power of every individual to accumulate stock, and consequently, if he pleases, to become idle, the workmen are particularly distinguished for their regular, frugal, and industrious habits. The truth is, that a *strike* is always a subject of the most serious concern to workmen; and the privations to which it unavoidably exposes them, form a strong presumption that they are honestly impressed with a conviction that the advance of wages claimed by them is moderate and reasonable, and that the *strike* has been forced upon them by the improper resistance of their masters. Even in those cases in which wages are notoriously depressed below the proper level, workmen will always be shy about *striking*, and will resort to it only as a last resource. Such a proceeding instantly deprives them, and those who are dependent on their exertions, of their accustomed means of subsistence; and in the event of their masters delaying for any considerable period to come to an accommodation, they are driven, from inability to support themselves, either to return to the business they have left, or to engage in employments to which they have not been bred, and which are not congenial to their *is*. It is not, therefore, easy to suppose that workmen

should often enter into a combination, and proceed to a *strike*, for the purpose of obtaining an unreasonable and exorbitant rise of wages. But if they should be at any time foolish enough to do so, there can be no question whatever that their efforts will be wholly impotent and ineffectual; and that, besides exposing themselves to great temporary hardship and distress, they will in the end have to accept the terms dictated by their masters.

Thus it appears, that if wages are at any time lower than they ought to be, a combination on the part of the workmen is highly proper and expedient, as being one of the best means of inducing their masters to raise them to their proper level. But if wages have already reached their natural limits, the self-interest of the masters will induce them to resist the combination, and the workmen will not obtain another farthing. The laws to prevent combinations are, therefore, either unnecessary, or unjust and injurious. They are unnecessary, whenever the rate of wages is as high as circumstances will permit; and they are unjust and injurious whenever it is below that level. Neither ought it to be forgotten, that whenever an attempt is made to control the operations of workmen, and to suppress their combinations by legislative measures, they uniformly ascribe to these measures an infinitely greater influence and effect than what really belongs to them. They look on them as being the exclusive cause of those reductions in the rate of wages, which must frequently be caused by changes of fashion, by a falling off in the foreign demand for their produce, and by other causes. The strong sense of their injustice, induces them to refer almost every real grievance with which they are affected to the same hated cause; and ultimately, the best institutions come to be viewed only as a part of a system which they conceive has inflicted on them much intolerable oppression.

Even though it were conceded that it is prudent and expedient for Government to interfere to put down a combination to raise wages above their proper level, the concession would be of no real value to the apologists of the combination laws; for the *result of the combination* is, in fact, the only test by which we can discover whether the advance of wages claimed by the workmen has been fair and reasonable, or the reverse. If Government were to refer to the opinion of the masters for information on the subject, they would be taught to consider the best founded claim for a rise of wages as unjust and ruinous: and if, on the other hand, they were to refer to the opinion of the workmen—an opinion which is just as deserving of attention as the other—they would be told that the most exorbitant and unreasonable demand was extremely moderate and proper, and that a compliance with it was imperiously required in the actual

circumstances of the case. It is only by the fair and free competition of the parties in the market, that we can discover which of these opposite and contradictory assertions is most consistent with the truth. There neither are, nor is it in the nature of things, that there can be any other means of forming a correct conclusion on the subject. If the workmen are in the right, they will, as they ought, succeed in their object; and if they are wrong, they will be defeated. Every interference of Government in the decision of such questions, must obviously, therefore, be productive only of pure and unmixed evil. As they have no means of informing themselves of the real merits of the case, they must, if they act at all, necessarily act blindly and capriciously: But even if they had such information, it would still be most unadvisable for them to attempt to interfere; as it is certain that every combination for an improper object will be much better and more effectually put down without their assistance than with it.

We must not, however, fall into the error of supposing that combination is an instrument wielded only by the workmen in order to force up their wages. So far from this being the case, it is the favourite means to which *the masters* almost invariably resort, when they wish to reduce wages; and it is clear, that the smaller number of the masters, the close and intimate connexion subsisting among them, their superior intelligence, and the greater amount of their accumulated wealth, must render a combination on their part incomparably more injurious to their servants, than a combination among the latter can ever be to them. And yet, notwithstanding all the boasted impartiality of the English law, *the very same statute which punishes the poor workmen who enter into a combination, with a lengthened, and, in some cases, solitary imprisonment, allows the combining masters to escape, on payment of a trifling penalty of TWENTY POUNDS!!!* But the attaching of similar penalties to a combination of masters to those that are attached to a combination of workmen, would really do very little to render the operation of the law against combinations less grossly partial and unequal. An identity of penalties would certainly give equality to the *letter* of the law, but it would not touch its *spirit and principle*, which are, and always must be, decidedly unfavourable to the workmen. However much it may be desired, it will be found, on examination, to be quite impossible to make the provisions of the combination laws affect the masters as they affect their servants.

We suppose, for the sake of illustration, that the workmen in the employment of an *individual* master combine together, and proceed to a *strike*, they become liable to all the

penalties of the statute; while it is obvious that this same master might, in the absence of all previous intimation of his intentions, inform his workmen, at any moment he pleased, that he meant henceforth to take 10, 20, or 50 per cent. from their wages; and in the event of their refusing to accept his terms, he might instantly dismiss them, without its being possible to indict him for a combination! No one can doubt that it is essential to the best interests of the community that the masters should enjoy this power, and that any attempt to dictate the terms on which they should employ workmen, would stimulate them to transfer their capital abroad, and give a mortal blow to the manufacturing and commercial prosperity of the country. It is evident, however, that so long as masters are possessed of this power, so long should every individual amongst them be considered as forming, of himself, a *perpetual and indivisible combination against his workmen*; and if we are to control the proceedings of the one party, the plainest and most obvious principles of justice require that we should equally control those of the other! Generally speaking, it must be a constant object with every master to reduce the wages of his workmen to the lowest possible limit, as it must be a constant object with the workmen to raise them to the highest; and this is evidently a struggle in which the master has always very great natural and acquired advantages on his side. The most skilfully organized and perfect confederacy on the part of the workmen, can never enable them to act with the secrecy, promptitude, vigour, and decision of the single individual, or *combination sole*, to which they are opposed. The utmost injury, too, that a *strike* can do to the master, is to deprive him for a short period of the productive services of his capital; whereas when workmen are turned out of employment, they are either involved in instant indigence, or are obliged to depend for subsistence on the slender provision they may have accumulated as a resource in old age and sickness. And when such is the case, we ask, whether any thing can be more palpably and glaringly unjust, than to punish workmen for endeavouring to *meet combination by combination*?—for availing themselves of the only means in their power for defending their interests against the unceasing attacks of their masters? For our part we do not hesitate to say, that it is greatly to be wished that combinations of workmen could be rendered more effectual, and that, consequently, the condition of the parties to the contract of wages could be brought more nearly to correspond.

But, as we have already observed, masters are very seldom satisfied with the tacit and unavowed, though powerful and efficient combination, which each forms against his own workmen. On the contrary, they frequently join together, and concert

measures in common, either to oppose the claims of the workmen for an advance of wages, or to enforce their reduction; and while the comparative fewness of their number enables them to combine easily, and in such a way as greatly to diminish the chance of detection, it gives a degree of unity and energy to their resolutions, which can never be expected from the tumultuary, vacillating, and unsteady councils of the workmen. 'We rarely hear,' says Dr Smith, 'of combinations of masters, though frequently of those of workmen. But whoever imagines, upon this account, that masters rarely combine, is as ignorant of the world as of the subject. *Masters are always, and everywhere, in a sort of tacit, constant, uniform, and sometimes open and avowed, combination, not to raise the wages of labour above their actual rate, and frequently even to sink them below it.* To violate this combination is everywhere a most unpopular action, and a sort of reproach to a master among his neighbours and equals. We seldom, indeed, hear of this combination; because it is the usual, and, one may say, the natural state of things, which nobody ever hears of. Masters, too, sometimes enter into particular combinations, to sink the wages of labour even below their actual rate. These are always conducted with the utmost silence and secrecy, till the moment of execution; and when the workmen yield, as they sometimes do, without resistance, though severely felt by them, they are never heard of by other people.'—*Wealth of Nations*, vol. i. p. 100.

In proof of what is here stated by Dr Smith, of the effect of combinations among the masters, we may mention the curious, and, in this respect, important fact, that the average money wages of type-founders in London are about the same (18s. per week),* at this moment as in 1770. The type-foundry is a comparatively limited branch of business, there being only about *ten* founderies, great and small, in London. Such facilities of combination have proved, of course, too tempting to be neglected; and the most perfect and complete union has long subsisted among the masters. All their measures are concerted in common; and their deliberations are conducted with as much secrecy, and their resolutions prosecuted with equal constancy, and inflexibility of purpose, as

* The type-founders are paid by the piece; but 18s. a week is about the *average* of their earnings. Strictly speaking, they have got two advances of wages within the last thirty years; but, from the greater fineness and delicacy that is now required in the letters, the workman is obliged to cast a great many more, in order to obtain the same number of perfect ones. The advance was, therefore, required to keep his money wages from falling, and did not really raise them.

those of the old decimal fraternity of Venice, to which they have not unaptly been compared. There is good reason, however, for thinking, that had it not been for the operation of the combination laws, the workmen might, by confederating together, and acting in concert, have made head against this combination, and forced their masters to raise their wages. But as the law now stands, any such proceeding would only serve to involve them in additional difficulties—to add persecution and imprisonment to the most squalid and abject poverty!

It is an admitted principle, that wherever competition is perfectly free, the rate of wages in those employments which are particularly noxious or disagreeable, must be elevated so much above the common level, as to afford a fair and reasonable compensation for the privations to which the workmen are exposed. The truth of this principle is too self-evident to require illustration; and as the business of the type-founders is of the most unwholesome and most disagreeable kind, their wages must, but for artificial impediments, have been comparatively high. The type-founders are constantly on their legs, with their heads over a furnace of nearly red hot metal, consisting of a compound of iron, lead, and antimony, the fumes of which are particularly deleterious. They are, in consequence, exposed to various diseases peculiar to that trade only, and which are reckoned so very destructive, that it is not unusual to exclude type-founders from becoming members of Benefit Clubs and other Friendly Societies. And yet, in despite of all this, from the facility with which apprentices may be obtained, and the almost insuperable obstacles which the combination laws afterwards throw in the way of the workmen leaving their employment and obtaining a rise of wages, it is a fact, that there is hardly one of the *more extensive* trades in the metropolis, and in which of course the combination among the masters is less complete, wherein, notwithstanding their superior healthiness and agreeableness, the rate of wages is not much higher than among the type-founders. The wages even of tailors are a full half higher! And we are informed that the wages of nailors, a species of employment which approaches pretty closely to that of type-founders, only that it is much more extensive, were the same in 1770 as those of the type-founders; but instead of remaining stationary, they are now about *double* the amount of the latter!

We know too that it is a common practice in many trades, when any of the workmen in the employment of a particular master either leave him, or are dismissed, to send a circular note to the other masters informing them of the circumstance, and warning them not to engage the individuals in question! On one occasion the saddlers of London and Westminster held a

meeting, and publicly resolved, that '*they would engage no journeyman saddler whatever, without first obtaining from his last master an account of his conduct during the time he was in his employ.*' This is combination in its worst and most offensive shape—combination not for the mere purpose of resisting a claim for a rise of wages, or of enforcing their reduction, but of proscribing every workman who may have, however undesignedly, given offence to a master—And the fact, that such combinations are publicly avowed and vigorously supported, at the very moment that the workman who combines to raise his wages is prosecuted with as much rigour as if he had been guilty of the most atrocious crime, certainly forms a singular feature in the far-famed justice of England!

We should never have done were we to attempt to lay before our readers a tithe of the information of which we are possessed, respecting combinations of masters against their workmen. The following, however, may be regarded as affording a pretty fair specimen of the spirit by which such associations are generally actuated, and of the means to which they resort to carry their purpose:—

The paper-makers of Scotland were long, and, for any thing we know to the contrary, still are, engaged in an intimate union and confederacy, one of the principal objects of which seems to have been to keep down the wages of their workmen to the lowest possible rate. In 1799 this formidable confederacy resolved to take 2s. a week from the wages of their journeymen; and on the latter remonstrating, *the whole papermakers of Scotland were turned out of employment by their masters on the same day!* After being deprived of their ordinary means of subsisting themselves for about three months, the masters agreed to take them back at the *old wages*.—a pretty substantial proof that the proposed reduction had not been necessary. In 1804, the continued relative lowness of wages in the paper-making business induced several of the journeymen to leave it, and to seek employment in other trades; but though no combination had been formed amongst them, the masters immediately held a meeting, and printed and published resolutions, in which, besides declaring that they would give no increase of wages, they resolved, that *the names of the journeymen who left their service should be published, the public at large cautioned not to receive them into any other employment, and the Justices of the Peace requested to proceed against them as vagrants!* The workmen continued to submit with exemplary patience for three years longer, to this unprovoked attempt to reduce them to a state of villenage. And it was not till 1807 that they presented Petitions, written by Mr. Sprat, Procurator-fiscal for the City of Edin-

burgh, humbly beseeching their masters to raise their wages. The supplication was indignantly rejected; and, in consequence, a large proportion of the men left their employment, and many of them entered into other businesses, while not a few emigrated to other countries. The confederated masters, however, did not even yet despair of carrying their point, and of forcing those whom they really seem to have considered as a species of 'hereditary bondsmen' back to their service. To effect this object, they entered into an offensive and defensive alliance with *the papermakers of England*, and resolved, in concurrence with the latter, that no master should, under certain specified forfeitures, allow his workmen any advance of wages, and that criminal informations should be filed against those who had withdrawn from their employment, in the Court of Justiciary!

We state these facts, not as forming matter of charge against the masters, but to show the practical bearing and real effect of combinations amongst them. That they should enter into such confederacies, is natural, and we really do not blame them for it: We are only anxious that the same freedom of combining should be extended to the workmen, and that each party should be left, without any interference on the part of Government, to support their respective pretensions as they think best. Hitherto the law has run altogether in favour of the stronger side; and we have yet to learn that a single master has been amerced in the trifling statutory penalty for entering into a combination to depress wages, or to resist their rise. How, indeed, could it be otherwise, when one of the Judges* of the land has not hesitated to declare from the Bench, that any master who should concede the demands of his workmen, who had struck for a rise of wages, ought to be considered as an enemy to his country! There is no meaning in language if this be not encouraging combination, and calling on the masters to confederate together to resist a demand which, for any thing that the Judge could possibly know to the contrary, might be perfectly fair and reasonable. The cruel and tyrannical conduct of many masters to those in their service, is not so much their fault as it is the fault of this unjust system of legislation. When we cast the poor workman bound hand and foot at the feet of his master, and tell the latter that he may trample on him with impunity, can we be surprised at his sometimes exercising this power? Does any one imagine for a moment that the master papermakers of Scotland would ever have acted as they did, had it not been for the confidence

* Mr Justice Best, at a trial at Chester in 1817.

placed by them in the *partiality* of the law, and a belief that, by its assistance, they would be able to force their journeymen back to their employment at the old rate of wages? It is the bane of the combination laws that, while they encourage and prompt the most humane and indulgent masters to resist an advance of wages, even when the claim for it is well founded, they furnish those of a different character, and who may be disposed to act oppressively, with the means of indulging their vindictive feelings, and, in some measure, of dictating to the whole trade. Instead of that kind, conciliatory manner which a master ought always to exhibit towards the labourers in his employment, and which, were the latter relieved from restraint, he would always find it *for his advantage* to exhibit, the combination laws have done all that it was possible for any laws to do, to render him haughty, domineering, and capricious,—to impress him with a conviction that he is of a superior *caste*, and that the labouring poor neither have, nor ought to have, the same rights as himself. The poor are sensible of this ignominious treatment, and they naturally and deeply resent it. The combination laws have taught both masters and workmen to believe, that there is one measure of justice for the rich and another for the poor. They have thus set the interests and the feelings of these two great classes in direct and hostile opposition to each other; and have, in consequence, done more to engender a deadly hatred between the different orders of society—to turn the masters into petty despots, and the workmen into treacherous and rebellious slaves, than can be easily conceived or imagined by those who are not pretty intimately acquainted with the state of society in the manufacturing districts. For the fair, open, and candid proceedings of men honestly endeavouring to advance themselves in society, and to sell their labour at the highest price, the combination laws have given us nocturnal meetings, secret cabals, and oaths of privacy!

In order to be effectual, legislative enactments must proceed on some recognised principle of justice and utility; for it is absurd to suppose that the bulk of mankind will ever yield a willing obedience to a law which they consider repugnant to the plainest principles of justice, and subversive of their own best interests. Now, this is notoriously the case with the combination laws. Their object is to prevent the labouring class from resorting to the only means by which they can maintain their proper place in society, and protect themselves against the combined efforts of those who have all the natural and solid advantages of accumulated wealth and political influence on their side. In consequence, there is scarcely a workman to be

found who does not consider it as a bounden duty to embrace every opportunity of acting in the teeth of their most positive enactments. All the means which the intelligence, the cunning, and the privations of workmen can suggest, for defeating and thwarting their operation, are resorted to from a thorough conviction of their gross partiality and unfairness. Unfortunately, however, the mischief does not stop here. The mere breaking through an unjust and absurd regulation, if it be a fault at all, is certainly one of a very venial description. The real evil consists not so much in what is *actually done*, as in what it stimulates to do;—in the contempt which it is but too apt to generate for all the institutions which have received the sanction of society, and which are necessary to its existence. Men of reflecting habits and dispositions distinguish between those laws which are either oppressive and unjust, or unnecessary and inexpedient, and those which conspire to secure the property, the liberties, and the rights of the different classes. However much such persons may deprecate the anomalous and absurd proceedings of legislators, they will give no countenance to the efforts of those who would not scruple, in order to get rid of a bad law, to subvert *all* the institutions of society. But the generality of men are not actuated by such motives. The odium which attaches itself to a partial and unjust law, provided, as in the case in question, its operation be very widely and generally felt, communicates itself to others. The poacher, who is as much persecuted and harassed for killing a hare or a partridge as if he had been guilty of the most atrocious crime, instead of being reclaimed by such harsh treatment, most commonly endeavours to *deserve* the punishment he receives, and becomes a robber and a murderer. Whenever we have made one bold and decisive step in opposition to one or other of the positive enactments of the law, our respect for the rest is necessarily very much weakened.—*C'est le premier pas qui coute*.—The flagrant injustice of a single part infects and contaminates the whole. The generality of men invariably lay the abuse of a principle to the charge of the principle itself; and because the Legislature have unjustly prevented workmen from combining together to raise wages, they may not be disinclined, should a convenient opportunity present itself, to revenge themselves by combining together to overturn the Legislature!

On every ground, therefore, both of justice and expediency, it appears to us, that the repeal of the combination laws would be an extremely wise and salutary measure. Until they are repealed, the terms of the contract between masters and workmen will never be adjusted, as they always ought to be, on the fair principle of

free and unrestrained competition. We defy any one to show that these laws have been productive of a single good effect. That combinations of workmen, as well as of masters, may be, and sometimes are, formed for the accomplishment of improper objects, we readily allow. But we have shown that these combinations will, when let alone, inevitably cure themselves, and that the efforts of Government to suppress them are both uncalled for and unnecessary, and oppressive and unjust. Every individual who is not a slave, must be entitled to demand any price for his labour that he thinks proper; and if one individual may do this, why may not fifty, or five thousand, demand the *same* price? A criminal act can never be generated by the mere multiplication of acts that are perfectly innocent. We are not to confound the power and the right to set a price on one's own labour, with the reasonableness of that price. It is the business of those who are the buyers of labour, and not of the Government, to decide whether the price set on it is reasonable or not. If they think it is unreasonable, they may, and they certainly *will*, refuse to buy it, or to hire the workmen; and as the latter cannot long subsist without employment, necessity will oblige them to moderate their demands. This, then, is plainly not a case for public interference and official regulation. The maxim—*Nec deus intersit, nisi dignus vindice nodus*—is still more applicable in politics than in poetry. But here interference is as *unjust* as it is unnecessary. To take from workmen the power of demanding any price they please for their labour, and of withdrawing from their employments if they do not obtain it, is to deprive them of the power of freely disposing of the only property they possess, and is, in effect, inviting their masters to treat with them as they would treat with slaves. Neither can it be doubted, that the abolition of this partial and oppressive system of legislation would really be as much for the advantage of the masters as of the workmen. The former being capitalists, must necessarily be far more deeply interested in the preservation of the public tranquillity; and it is, therefore, of comparatively great importance to them that every law or regulation, which, at the same time that it is essentially unjust, has a powerful tendency to irritate and inflame the great mass of the population, should be repealed. And that such is the real character, and such the effect of the combination laws, none can doubt. Whatever advantage they give the masters over the workmen, is *unjustly* given them; though, by rendering the services of workmen in some measure compulsory, and preventing them from feeling the full force of some of the most powerful motives which stimulate men to be industrious, it may be questioned, whether they do not really render the

quantity of labour that is actually performed dearer than it would be were they abolished. But, admitting that they do confer a real advantage on the masters, still it is plain that they can have no just title to what they obtain at the expense of another, and certainly not less valuable, part of the community: and it is farther plain, that Government cannot continue them in the possession of this unjust advantage, without alienating the affections, and exasperating the mass of the labouring poor, and, consequently, without greatly endangering the safety and tranquillity of the state; and paving the way for convulsions and bloodshed.

We have heard it said that the combination laws are advantageous, because they tend to keep wages down! But it is a miserable error to suppose that low wages can ever be advantageous. If the condition of the labourers be depressed, the prosperity of the other classes can rest on no solid foundation. The labourers always form the great mass of the population of every country; and whenever their wages are reduced to the lowest limits, they must of necessity subsist on the coarsest and scantiest fare. Men placed in such circumstances are without any sufficient motive to be industrious, and, instead of activity and enterprise, we have sloth, barbarism and ignorance. The example of such individuals, or bodies of individuals, as submit quietly to have their wages reduced, and who are content if they get only the bare necessities of life, ought never to be held up for public imitation. On the contrary, every thing should be done to make such indifference be esteemed disgraceful. The essential interests of society require that the rate of wages should be elevated as high as possible—that a taste for the comforts, luxuries, and enjoyments of life should be widely diffused, and, if possible, interwoven with the national habits and prejudices. A low rate of wages, by rendering it impossible for increased exertions to obtain any considerable increase of comforts and conveniences, effectually hinders any such exertions from ever being made, and renders the labourer idle, sluggish, and indifferent. But the desire to rise in the world, and to improve our condition, is deeply seated in the human breast, and can never be wholly eradicated; and whenever wages have been increased, and new conveniences and enjoyments made attainable by the labourer, indolence has uniformly given way to exertion; a taste for these conveniences and enjoyments has gradually diffused itself; increased exertions have been made to attain them; and ultimately, it has been thought discreditable to be without them.

It has, we know, been repeatedly affirmed, that high wages

are more productive of idleness and dissipation than of exertion; and that, if labourers can earn as much in three or four days as will support them a week, they will absent themselves during the remaining days from their employment. Nothing, however, can be more marvellously incorrect than these representations—more completely at variance with principle and experience. It is certainly true, that individuals will be found in every country and situation of life, who are careless of the future, and attentive only to present enjoyment; but these always form a very small and even inconsiderable minority of each particular class. Whatever may be the case with this or that individual, the principle of accumulation always predominates in aggregate bodies over the passion for expense. That the *amor habendi crescit quantum ipsa pecunia crescit*, is as certainly true of the labourer as of the miser. Industry, as Dr Smith has observed, is like every other virtue, *it improves in proportion to the encouragement it receives*.

If an increase of wages ever discourages industry, it must be the industry of the wretch who has previously been working for mere subsistence, or the forced industry of the indolent and the dissolute; and even to produce this effect on them, the increase must have been *sudden and transitory*, not gradual and permanent. We are warranted in affirming, that a steadily high rate of wages, never has had, and never will have, any such effect. The poor have, upon plain practical questions that touch their immediate interests, the same understanding, the same penetration, and the same regard to consequences as those who are rich. It is indeed a contradiction, and an absurdity to pretend, that if labourers are capable of earning, by an ordinary degree of application, more than is sufficient to support them, they alone, of all the various classes of society, will spend the surplus in riot and debauchery. They have the same common sense, they are actuated by the same passions, feelings and principles, as other men; and when such is the case, it is clear they cannot generally be guilty of such inconsiderate conduct. But, to lay aside general reasoning, does not the state of industry, in countries where the natural rate of wages is low, compared with its state in those where it is high, substantiate all we have now said? Have the *low* wages of the people of Ireland, Poland, and Hindostan, made them industrious? or the *high* wages of the Americans, the English, and the Hollanders, made them lazy, riotous, and profligate? Just the contrary. The former are as notoriously and proverbially indolent, as the latter are laborious, active, and enterprising. The experience of all ages and nations proves that high wages are the keenest

spur—the most powerful stimulus to unremitting and assiduous exertion. Wherever the rate of wages is high, workmen have not only a considerable command over the necessities and conveniences of life, but also a considerable power of accumulation: And as few are so brutified as to be insensible of the blessings of independence, they almost universally endeavour to avail themselves of this power to emerge from poverty and to attain to opulence. Every individual, placed in such circumstances, *feels* that he derives a direct and tangible advantage from the institution of the right of property, and that otherwise he should not be able peaceably to enjoy the fruits of his industry; and he consequently becomes personally interested in its support, and in the support of the public tranquillity. It is not when wages are high and provisions abundant, but in periods when they are low, and the harvest less productive than usual, that the manufacturing and thickly peopled districts are disturbed by popular clamours and radical commotions. Nor is this the case in Britain only, but in all other countries. *Dans aucune histoire, on ne rencontre un seul trait qui prouve que l'aisance du peuple par le travail a nui à son obéissance.* * Whatever may be said or written to the contrary, there cannot be a doubt that high wages are by far the most effectual means of promoting industry, and attaching the bulk of the people to the institutions under which they live: while they have the farther advantage of insuring a comfortable subsistence and good education to youth; and of preventing sickness and old age from being driven to seek a wretched asylum in workhouses and hospitals.

Nothing, therefore, can be so signally disadvantageous, so overwhelmingly disastrous to any country, as a permanent degradation in the rate of wages, or a decline in the opinions of the labouring class respecting what is necessary for their comfortable and decent subsistence. And in the absence of all other reasons for their repeal, the fact, that the combination laws have a decided tendency to reduce wages, ought to be held to be conclusive of their impolicy, and of the propriety of abolishing them. No country can be flourishing when the rate of wages is low, and none can be long depressed when it is high. The labourers are the sinews of agriculture, of manufactures, and of commerce. Their numbers are not estimated, like those of the other classes, by hundreds or thousands, or even by hundreds of thousands, but by *millions*! It is by their labour that our

* Forbonnais, *Recherches sur les Finances de France*. Tome i. p. 111.

machinery is constructed and kept in motion; and it is by their industry, ingenuity and frugality, that we are enabled to support burdens that could hardly be supported by any other people. Every thing then that may have the slightest tendency to depress their condition, or to sink them in the scale of society, ought to be most particularly guarded against. Those who feed and clothe all the rest, ought themselves to be '*well fed and well clothed.*' The labourers are the *foundation* of the social pyramid; and so long as they are treated impartially and fairly, and wages continue high, the foundation will be stable; for so long will they be peaceable, orderly, and industrious. But if we continue to enforce the provisions of the combination act:—If we continue to treat the labourers as a degraded *caste*, and to prevent them from setting a price on their labour, and from doing that which their masters are every day in the habit of doing, the desire to avenge such barefaced injustice and oppression, will supplant the desire to save and rise in the world, and they will infallibly become idle, dissipated, and rebellious. The spirit of industry, by which they have been so eminently distinguished, will gradually evaporate, and with it the morals, prosperity, and tranquillity of Britain.

As to Scottish combinations, we scarcely know how to talk of them,—because we are (that is to say, the author of this article is) utterly unacquainted with the forms, and even the very phraseology, of the law of Scotland; and there are some things in the books which he has looked at on the subject so extraordinary, that he is forced to suppose that he is altogether in a dream, although he must confess himself wholly unable to discover where the delusion lies. It is believed, however, that the whole mystery is to be found in a principle of Scotch criminal law, which is explained very distinctly in the late learned work of Mr Hume on that science. This principle seems to be, that the Court of Justiciary, which is the supreme criminal tribunal of that country, has power to declare any thing a crime that it pleases, without precedent or statute. This maxim seems, to an uninitiated person, to be as curious as any of the wonders which it is used to explain. But it must of course be assumed (though we have not met with any body who has been able to point out the precise act), that Parliament must have conferred this authority by some special statute, and made that delegation of its powers to this particular Court, which no one ever heard of its doing to any other. He who reflects on the Scottish law of combination, therefore, as a political economist, must begin by subduing his mind to the reception of this principle as an ultimate fact; and then he must next reflect,

that when the catalogue of crimes depends merely on the opinion of a single tribunal, composed of a small number of individuals, it must vary according as the persons or the views of these individuals change. Thus prepared, he may stomach the following statement of a chapter of Scotch Criminal Law, which is taken entirely from the learned work that has been already named.

It appears that, in the year 1808, combination was adjudged *not* to be an indictable offence in Scotland. The combination statute was held not to apply to that country; but in that year, certain journeymen papermakers were brought to trial at common law. This was the *first* instance in which the judgment of the Court of Justiciary was fairly demanded on such a case. 'For,' says Mr Hume, 'though stated 'in certain libels' (indictments), 'the matter *had not been* *deliberately considered on any former occasion.*'* The Court was of opinion, and accordingly pronounced a legal judgment declaring,—that *combination was no offence*; that is, no offence for which an indictment lay in a Scotch Criminal Court. If this judgment had proceeded simply and firmly on the principle, that since there was no statute, and no precedent, for declaring the union of workmen to be a crime, it was not the province of a court of law to make one, it would have stood upon sure and intelligible ground. But it appears that this view was taken by nobody, at least on the Bench. It is stated, that the majority of the Judges held combination not to be criminal, merely because it 'did not imply that degree of *baseness or depravity* in the confederates which were essential, 'in the opinion of these Judges, to the notion of an indictable crime.' As to the views of the rest of the Court, it is fortunate that we can state them in the words of the author we have already referred to; because, otherwise, we should certainly not have been able to conjecture upon what grounds *a court of law* should enact a particular arrangement, the expediency or inexpediency of which depends merely upon delicate principles of commercial policy, to be not only of a criminal character, but so criminal that the man who was accessory to it, should be liable to be apprehended and punished without the slightest previous intimation that what he was doing was wrong. But the following, it seems, were the judicial views of those who thought that this was an indictable offence. Before quoting them, we must request the reader to observe them narrowly, and to endeavour to ascertain, as he is going along,

* Vol. I. p. 489, Ed. 1819.

whether combination was to be punished, because it was a *fraud*,—or an *infringement of the liberty of the subject*,—or *extortion*, or the *setting up of an arbitrary government*,—or *sedition*,—or *treason*.

‘ Three of the Judges dissented from this judgment,—and on these grounds: That a combination to raise wages by the sudden striking of work, is a measure of a compulsive character, and implies a deliberate and mischievous purpose to distress the employer and the public: That by means of such proceedings, labour has a *false price* affixed to it, *in defraud of* the buyer, and to the great prejudice of manufacture and trade: That they are an infringement of the freedom of the market, which it is one of the main objects of policy in every state to secure: That they are no less an *infringement of the freedom of the subject*, which does not consist in liberty of person only, but of conduct,—in the right of doing as one pleases, in all matters not commanded or forbidden by law; and, among others, that of hiring out one’s service, to whom and on what terms one chuses: That an *extortion* is here practised against the employer and the public, and this by means which strike at the vitals of order and civilized society, and truly amount to an *usurpation of sovereign authority*; in as much as there is here an attempt to *set up an arbitrary and uncontrollable dominion in the State*, which shall enforce, at its own pleasure, what the legislature have never thought advisable to attempt: That any association which aims at power or permanency, or proposes to do its work by means of such instruments, requires his Majesty’s authority, and, without it, is *downright usurpation*; and *that to discipline multitudes into common measures, even in what is innocent, is an interference with the rights of Government*, which is justly regarded with jealousy in all well regulated states, and is permitted, if at all, with circumspection, and under precautions: That we have, in the present instance, the creation of an engine of prodigious power, readily convertible to the purposes of *sedition and democratic oppression*, and to favour, according to the pressure of the times, the projects of *designing demagogues*, or the vices or follies of the rash or turbulent: That such confederacies tend, in the example, to the highest and most extensive mischief; and as the thing is thus marked, not with one, but with many of the proper characters of a crime (for a corrupt and malignant heart is nowise indispensable), so, according to the settled principles of our practice, *it falls under the wholesome correction of our common law, and may competently be chastised with a suitable and seasonable censure, before the evil grows too strong, and*

‘spreads too far to be subdued, *without the help of statutable and extraordinary means.*’ *

This being the state of the law, we must suppose that there are, of course, no Bible Societies in that part of Great Britain called Scotland; because the people of that country are extremely loyal, and it seems that there, ‘to discipline multitudes into common measures, *even in what is innocent*, is ‘an interference with the rights of Government,’ and falls under that ‘*wholesome correction*,’ by which the office-bearers may be imprisoned or transported, or scourged, ‘without the help of statutable and extraordinary means.’ These doctrines, however, did not go down in the year 1808. The lieges were judicially told, in October of that year, that Combination, notwithstanding these strong and legal considerations, was not an indictable offence. But the workmen, if any, who were induced, by this decision, to resist their masters with their own weapons, soon found themselves in a trap; for it seems, that, before three years had passed, combination *had become* a crime. Some shoemakers were indicted in the beginning of 1811; and although there were other objections to the indictment, which saved them from being tried, it appears that the Court had, by that time, so far changed its views as to intimate an opinion that the prisoners had been guilty of a punishable offence.

Still, however, there was no actual conviction. Therefore, † ‘a further *experiment* was made,’ by indicting some journey-men cotton-weavers. These persons were tried and found guilty; and had an opportunity of knowing something of the wholesome correction of our common law. The several panels ‘had sentences of imprisonment in proportion to their respective degrees of activity in the cause, *for four, nine, and eighteen months, till they should find caution to keep the peace for three years.*’ (Hume, vol. i. p. 491.) It was stated, not as the essence, but as a mere aggravation of the guilt of these persons, that, in furtherance of the combination, they had been guilty of violence and other outrages. The simple combination, *by striking work*, was held to be enough, though they were convicted both of this and of the aggravation. But in the next case, which occurred in March 1813, a workman was expressly found ‘not guilty of any of the acts of violence, intimidation or extortion charged;’ and he was *punished for simply combin-*

* Hume, Vol. I. p. 489. Ed. 1819.

† Hume, vol. i. p. 490, ed. 1819.

ing. In all these cases, it had at least been required that the men should have struck work. This at the least was thought to be necessary, as the palpable overt act by which combination is generally known, and by which alone it generally proves injurious. But even this was speedily dispensed with; and, in the year 1818, two colliers were convicted for their accession to a combination, in the course of which there had been no violence, or intimidation, or extortion, or *actual striking of work*, but simply an intimation to the masters, that if their wages were not raised, they *would* strike. It was held that '*a threat to strike work is a true and substantial compulsory measure.*'

Thus, in the course of nine years and a half, did the law of Scotland, administered by a Court having the power to declare new offences, vibrate between combination effected not merely by striking work, but by great violence, being no crime at all, and its being a crime, when effected by simple union, even without any striking whatever. Within this period, the paper-makers,—though accused of combination accompanied by violence,—were found innocent; and the weavers, though accused of combination without violence, were imprisoned from four to eighteen months. The reflection with which this history is closed by the learned author, from whom we have taken it, is in these words. '*This new point of dittay seems, therefore, now to be thoroughly established; and it furnishes another illustration of the character of our common law, and of its power to chastise, of its own native vigour, all wrongs and disorders, as the state of society brings them forth, which are found to be materially dangerous to the public welfare.*' We can add nothing to this, except that one of the Judges (the late Lord Meadowbank), after giving an exposition of the evils attending a combination of workmen, suddenly changes the whole of his reasoning, when he comes to speak of the other combination out of which this one invariably grows, and lays it down in direct terms, that '*the combination of masters is in general beneficial to the public, and to the workmen they employ.*' * We apprehend our readers will consider this as a sufficient specimen of the law of Scotland with respect to Combinations—and shall only add, that if the definite, and comparatively mild statutes of England are now to be repealed as unjust and oppressive, the recent and variable rigour of the Scottish common law, on this subject, must at the same time be corrected.

Besides the unjust and oppressive restraints laid on workmen by the combination laws, a variety of statutes have been passed

* Report of Speeches, Burnett's Criminal Law, Appendix, p. 37.

to prevent them from emigrating, and even to hinder them from exporting any portion of the produce of their industry, when in the shape of machinery, to other countries. Thus, it is enacted by the 5th Geo. I. cap. 28, extended and confirmed by the 23d Geo. III. cap. 13, that any person who shall ‘ contract with, ‘ entice, persuade, or endeavour to persuade, solicit or seduce, ‘ any manufacturer, workman, or artificer in wool, mohair, cotton, or silk; or in iron, steel, brass, or other metal; or any clockmaker, watchmaker, or *any other* manufacturer, workman, or artificer in any other of the *manufactures* of Great Britain or Ireland, *of what nature or kind soever*, to go out of this kingdom into any foreign country not within the dominions of the Crown, is liable to be indicted, and to forfeit 500*l.*, to suffer imprisonment for twelve months, and until the forfeiture is paid; every subsequent offence being further punishable with 1000*l.* penalty, and two years’ imprisonment.’

It is also enacted by the same statute, that any artificer who shall have quitted the kingdom and settled in a foreign country, and who shall not return within six months after warning given him by the British ambassador where he resides, shall be deemed an alien, shall forfeit all his goods, and be made incapable of receiving any gift or legacy!

Before an emigrant can pass the customhouse, he must be furnished with a certificate, signed by the churchwardens and overseers of the parish. This certificate certifies and declares, that ‘ the bearer is not, nor hath ever been, a manufacturer or ‘ artisan in wool, iron, steel, brass, or any other metal; nor is ‘ he, nor hath he ever been, a watchmaker, or clockmaker, or ‘ *any other artificer whatsoever.*’ And to establish the authenticity of this document, it must be signed by a Justice of the Peace, certifying that Messrs so and so are the churchwardens and overseers of said parish!

With respect to machinery, it is enacted, by the 14th Geo. III. cap. 71, that if any person exports any tools or utensils used in the silk, cotton, linen, or woollen manufactures, he forfeits the same and 200*l.*; and the captain of the ship having knowledge thereof, likewise forfeits 200*l.* The punishment for this offence was further increased by the 21st Geo. III. cap. 57, which, besides the penalty of 200*l.*, subjects the offender to imprisonment for twelve months; and by the 22d Geo. III. cap. 60, the penalty is increased to 500*l.*, exclusive of the imprisonment!

The extreme hardship of these regulations is obvious. What can be more oppressive than to prevent an artisan from carrying either his labour, or the produce of his labour, to the best

market? Why should he be forced to remain in this country, if he supposes he can improve his condition by removing to another?

All the best writers on public law agree in opinion, that it would require very strong reasons to justify the government of a free state in restraining the emigration of its subjects. * The Romans granted full liberty to any one who chose to withdraw from under their government; a privilege which Cicero justly regarded as of the highest importance, and as being essential to the preservation of the public freedom. *O jura præclara, atque divinitus, jam inde a principio Romani nominis, a majoribus nostris comparata — Ne quis invito civitate mutetur, neve in civitate maneat invito. Hæc sunt enim fundamenta firmissima nostræ libertatis, sui quemque juris et retinendi, et dimittendi, esse dominum.* (Orat. pro L. C. Balbo, cap. 13.)

The disadvantages to which individuals are subjected in their native land must be very great indeed, to render force and unjust restraints necessary to retain them in it. All our prejudices and affections are in favour of the country of our birth. It is endeared to us by the tenderest ties.—The sea which the emigrant has to pass appears, to use the words of Mr Malthus, like the separation of death from his friends, his kindred, and the companions of his former years. And except when a spirit of enterprise is added to a strong sense of the evils of poverty, and a lively expectation of being able to escape from them in another country, few will be disposed to snap asunder the ties which bind them to the homes of their fathers, but will

‘ Rather tamely bear the ills they have,

Then fly to others which they know not of.’

But the restraints on the emigration of artisans are as impolitic and inexpedient as they are unjust and unnecessary.—Whenever population is redundant and the wages of labour depressed, every facility ought to be given to emigration. Were it carried to a considerable extent, it would have the effect, by lessening the supply of labour in the market, to raise the rate of wages, and to improve the condition of the labourers who remain at home. Nor, while it would produce these good effects, is there the least risk that it could be carried too far, or that the supply of labourers could be injuriously diminished: For, the rise of wages that must always follow every considerable emigration, would not only stimulate the principle of population, but would

* See Grotius par Barbeyrac, Tome I. p. 306. Puffendorf par Barbeyrac, Tome II. p. 600. Burlamaqui's Political Law, p. 119, Eng. Trans.

also weaken the motives to emigrate, at the same time that it would give new strength to the natural repugnance which every one has to leave his native country. Government, indeed, by giving bounties and encouragements to emigrants to Canada, South Africa, and Van Diemen's Land, has recently acknowledged the justice of this reasoning. They have acknowledged that emigration is not only harmless, but that it ought, in certain cases, to be artificially promoted. And having gone thus far, they are bound in consistency to propose the repeal of those vexatious restrictions which prevent its being carried on freely.

But then it is said, that the places to which Government have authorized and encouraged emigration are subject to the Crown of Great Britain, and that there is a wide and material difference between allowing artisans to carry their industry from one part to another in our own dominions, and allowing them to settle among foreigners, and to become the instructors of our rivals and enemies ! Surely, however, no one can be so silly as to suppose that even a fourth part of those who emigrate to Canada have any intention of continuing there, or that they can be detained in it a moment longer than they please. The artisans who are desirous of settling in the United States go to Canada, because they are not permitted to sail directly for the place of their destination. When there, they avail themselves of the earliest opportunity of crossing the frontier. And the result of the whole is, that in despite of penalties, imprisonment, forfeiture of property, and the certificate of churchwardens and Justices, there is not a single village in the United States which does not swarm with English artificers ! Our regulations fetter emigration ; but they are completely ineffectual for the intended purpose of checking it altogether, and of preventing our artisans from finding their way to foreign countries ;—while, by forcing them to take a circuitous route and increasing their expenses, they cause the emigration of those who have saved a little capital rather than of those who are comparatively poor, and whom the country could have most advantageously spared.

The unconditional repeal of the laws preventing emigration could not occasion any considerable influx of British artisans into the Continent. The lowness of wages in the Continental States, the difference of customs and habits, and above all of language, are obstacles to extensive emigration which it is almost impossible to overcome. There are really no grounds whatever for thinking that the utmost freedom of communication between this country and the Continent could do more than facilitate the emigration of such of the better educated and more

aspiring class of our artisans as are able to act as overseers; and all the harshness and severity of the existing restraints is insufficient to prevent such persons from dispersing themselves over every quarter of the globe. At this moment all the principal cotton factories of the Continent are furnished with English overseers and machine-makers. On Mr Augustus Lee, of the house of Phillips and Lee, of Manchester, being asked by the Committee of the House of Commons, appointed in 1816, to inquire into the state of the children employed in our factories, whether the machinery used in the cotton factories at Rouen and Paris was inferior to ours, he answered, '*I saw some mills with machinery better than the average of ours, and the very latest improvements.*' He further stated, that the principal factories in France were furnished 'with English overseers and machine-makers,' and that he had frequently met with them in Prussia.—(*Report*, p. 345.) As corroborative of Mr Lee's statement, we may mention, that M. Marcel de Serres, the author of the very valuable statistical work on Austria, in giving an account of the great cotton factory at Pottendorff, near Vienna, states, that the superiority of its yarn is owing to the excellence of its machinery, which was constructed under the direction of the skilful English engineer, Mr ———. And he adds, that there is hardly a factory in the empire, of any considerable extent, where Englishmen are not to be met with.—(*Tom. ii. p. 88.*)

We have here a striking and unanswerable proof of the inefficiency and absurdity of the restraints laid on the free emigration of artisans. The encouragement given on the Continent to those whose education and attainments fit them to direct the construction of large manufacturing establishments, or to superintend them when constructed, will always prove an overmatch for the pains and penalties of our law, and will procure them a sufficient supply of masters qualified to teach them all our arts. Our regulations are, as we previously observed, really operative only on the poor and ill-educated class of artificers, whose emigration would be equally advantageous to themselves and the country. It is to the United States only that such persons can emigrate; and by preventing their direct transit to that country, and by obliging them to reach it by a comparatively lengthened and difficult route, we do them and ourselves a real injury. Supposing, therefore, that the principle on which the restrictions on emigration are founded were as just and liberal as it is unjust and oppressive, still it would be true that the restrictions are either useless or pernicious.—

They are useless, because they cannot effect the object they have in view; and they are pernicious, because they prevent the emigration of those whose emigration would be a benefit.

The observations we have already made are sufficient, of themselves, to show the impolicy of the statutes preventing the exportation of Machinery. Of what possible use can it be to prevent the exportation of any article, when we cannot prevent the emigration of the artisans by whom that article is manufactured? Our restrictions are not really injurious to our foreign rivals, but to ourselves. The superiority to which we have attained in manufacturing industry, is owing partly to the comparative freedom of our constitution, to the absence of all oppressive feudal privileges, and to our greater security of property and of personal liberty, and partly to the advantages of our situation and our abundant supplies of coal. Most certainly we have not risen to opulence by the aid of restrictive laws and prohibitory regulations, but in despite of them. Instead of accelerating, they have clogged and retarded our progress. Were the freedom of industry established, our artisans would, at no distant period, become the makers of machinery for every country in the world. Nor would this be in the least degree injurious to our own manufacturers. They would then, as now, enjoy all those moral and natural advantages to which their present prosperity is entirely owing; while a new source of wealth and fortune would be opened to support and enrich another, and a very numerous class of their fellow-citizens. Our prohibitions do not prevent the French and Germans from obtaining the very best machines. No such thing. Their only effect is, to deprive our artisans of the opportunity of producing them, and consequently of the profit they would make on their sale, or, which is the same thing, to impoverish them for the sake of enriching the artisans of Normandy and Saxony!

Parliament has wisely resisted repeated solicitations to prohibit or fetter the exportation of cotton yarn: and it has done so on the ground, that such a prohibition would contribute infinitely more to encourage the factories on the Continent than to increase the sale of British cotton goods. Now the case with respect to machinery is precisely similar. By prohibiting its exportation, we do not increase the consumption of British manufactures on the Continent; we only force the inhabitants to construct machines for themselves, and to become our rivals and competitors in a branch of industry of which we should otherwise enjoy an almost exclusive monopoly!

ART. IV. *A Critical Inquiry into Ancient Armour, as it existed in Europe, but particularly in England, from the Norman Conquest to the reign of King Charles II.; with a Glossary of Military Terms, &c.* By SAMUEL RUSH MEYRICK, LL. D. 3 vols. 4to. Jennings. London, 1823.

WE rise from the perusal of this book, strongly inclined to dispute Mr Burke's pathetic announcement, that the age of chivalry is gone—or very glad, at least, to find that such ample memorials of it have been preserved. 'A Critical Inquiry into Ancient Armour,' in three vast quarto volumes, does indeed carry with it a note of alarm:—but while the splendour of its decorations is well calculated to excite curiosity, the novel character of its contents, the very curious extracts from rare MSS. in which it abounds, and the pleasing manner in which the author's antiquarian researches are prosecuted, will, if we mistake not, tempt many who take up the work in idleness, to peruse it with care. As a laborious and zealous antiquary, Dr Meyrick has been for some time well known to the public; and we should have been disposed to augur very favourably of his success in such a work as this, from two or three papers of his that we remember to have seen in the *Archæologia*. The substance of the 'Observations on the "Lorica Catena" of the Romans,'* seems to be embodied in this Inquiry; but though these are clever and minute, they are not to be compared, in point of extent, arrangement, science, or *utility*, with the work now in question. The first three attributes, we suppose, will be generally conceded—but, as many people may boggle at the last, we must say a word, in passing, in defence of it. 1st, It for the first time supplies to our school of Art, correct and ascertained *data* for *costume*, in its noblest and most important branch—historical painting; 2d, It affords a simple, clear, and most conclusive elucidation of a great number of passages in our great dramatic poets,—aye, and in the works of 'those of Greece and Rome,'—against which commentators and scholars have been trying their wits for centuries; 3d, It throws a flood of light upon the manners, usages, and sports of our ancestors, from the time of the Anglo-Saxons down to the reign of Charles the Second; and, *lastly*, It at once removes a vast

number of idle traditions and ingenious fables, which one compiler of history, copying from another, has succeeded in transmitting through the lapse of four or five hundred years.

It is not often the fortune of a painful student of antiquity to conduct his readers through so splendid a succession of scenes and events, as those to which Dr Meyrick here successively introduces us: But he does it with all the ease and gracefulness of an accomplished *Cicerone*. We see the haughty nobles and the impetuous knights—we are present at their arming—assist them to their shields—enter the well-appointed lists with them—and partake the hopes and fears, the perils, honours and successes, of the manly tournaments. Then we are presented to the glorious damsels, all superb and lovely, ‘in velours and ‘clothe of golde, and dayntie devyces, bothe in pearls and eme-
‘rawds, sawphyres and dymondes’—and the banquet, with the serving-men and bucklers, servitors and trenchers, and shields of brawn, and goodly dolphins, and barbecued boars, and spiced wines—kings and queens under gorgeous canopies of state—lords and ladies footing it to high corantos—pageants, high as the massive roofings of the royal halls, suddenly and slowly wheeled in with all the cumbersome and motley pride of rude magnificence—showing, haply, a frowning tower and delicious gardens; trees of green velvet and gold brocade; fruits of emerald and amethyst and silver;—this costly fabric (and demesne) preceded by ‘*a salvage man*, armed with a club’—and then ‘soft musicke,’ to which the castle opens, from battlement to base, allowing free egress to the ‘twelve fayre maydens,’ who (you are to suppose) have been long imprisoned therein, and are now released by the beautiful conqueror of the wild men; to wit, a blooming youth, hight ‘*Amour Loyal*.’ These are the festivals to which we are here admitted; and while we have the very knights in their proper armour, surcoats, &c. before us, blazing in gold and silver, we feel as if the age of chivalry, if once gone, had returned in its glory, and are transported back to the sentiments as well as the scenes which it inspired.

The author in a neat and sensible Preface, lays it down as an axiom, that ‘defensive arms clearly *follow* the character of the instruments of assault;’ and he adverts to the war mat of the South Sea Islanders, and the wicker shields of the Japanese, as instances equally in point with the European cuirass of antiquity; each of these defences being suitable to the weapons of assault peculiar to the nation or people among whom they obtained. It is ingeniously suggested, that

'The pleasures and dangers of the chase, were, perhaps among the first of human pursuits that suggested the use of armour. In the fair fields of that beautiful creation which never taught man war,—he would find, when inflamed by his own passions, suggestions both of offensive and defensive warfare, upon which he has rarely improved. The mailed tortoise, the scaly shields of fish, even the beautiful lapping over of feathers in the plumes of birds, afforded him specimens of well contrived protection; while, from the boar, the bull, the ram, or the sagacious and tenacious cat, he might obtain lessons, not to be de-pised, of powerful and skillful assault. We know, in fact, that a certain disposition of the shields, in imitation of the folds of tortoise shell, was in use among the Greeks; and is alluded to, in a curious Treatise on the Duties of the Foot-soldier in the 14th century. A floating "*boar*," armed with iron, and pushed forward with oars, is recommended, in the same treatise, in sea-fights. The battering "*ram*" long retained a name and figure, indicative of his origin; and has transferred, in modern times, no small portion of his merits, with its etymon, to the ram-rod. And the "*prickly cat*" (*felis echinata*), we are told was one of the best kind of arms, and most useful for the defenders of castles. SHE could even be set upon her prey with success; being armed with "*oaken teeth*" and "*curved nails*," which, when the enemy approached, might be thrown upon him, and "*serve to bring up one or more into the walls.*"' *Preface*, p. 11, 12.

The following appears to be among the most capricious accidents that ever occurred in the annals of philology.

'Nor, it is hoped, will the etymologist despise our aid, when we instance "*dag*" as signifying a *pistol*; while "*pistolese*" implies a *dagger*; and "*semi-targe*" a corruption of "*scymitar*"; as showing that conclusions should not be too readily formed from sounds."

The main object of the work, however, is explained to be—

'To establish that chronology of *costume* with respect to ancient arms and armour, which has hitherto been so imperfectly regarded, alike by writers, painters, and dramatists of modern times. The refined taste which, with regard to *other* matters of costume, has been so happily cultivated in this country, during the present reign, has not only given a general stimulus to the arts, but introduced into paintings and scenic representations of all kinds, an historical correctness with which our ancestors were unacquainted. Good drawing and correct colouring, fine acting with well delivered sentences, are now considered as insufficient without chronological accuracy. Though, in every other respect claiming our applause, Alexander and Statira in brocade and velvet, are as offensive on the canvass, as that conqueror in a gold lace coat and wig; and his favourite, in a corresponding habit, at the theatre.' 'Such absurdities, however, are now banished.' And why, in respect to

armour, should a similar accuracy be deemed unworthy of regard? In all the paintings since the time of Charles I., the warriors, of whatever age, are represented in the military costume of that period, and yet, as great a variety has existed in armour; and it is as characteristic of successive eras, as in other habiliments. The truth is, artists have neither understood the subject themselves, nor been able to find sources of information elsewhere. The modern practice is to draw from the collection in the Tower; and yet, notwithstanding the pretence, there is not a suit there, older than the time of Henry VII.' . . . 'The materials for the present undertaking have been copies (accurate as far as possible to obtain them), of ancient seals, illuminations, painted glass and monuments; which, when chronologically arranged, have been compared with extracts from historians and poets, from wills, inventories of armour and royal ordinances: And here, the author would acknowledge the kindness of his friend Major Smith—(his coadjutor in "the Costume of the Original Inhabitants of the British Isles,") in the loan of his memoranda and drawings;—the useful hints of his much esteemed friend, that most able and critical antiquary, Francis Douce, Esq.; and the valuable communications on all that relates to Scotch armour, from one no less to be admired for his private virtues than his boundless talents, his good friend Sir Walter Scott, Bart.'

The 'introduction,' which sets out with the declaration, that 'armour had its origin in Asia,' occupies 77 pages of the first volume, and gives a succinct but satisfactory account of its ancient condition and peculiarities among the Egyptians, Lybians, and Ethiopians;—the Jews, Philistines, Phœnicians, and a number of other barbarians, down to the Grecians, Etruscans, Samnites, Romans, and a vast number of other nations of antiquity,—as well as among the Gauls, the Germans, the Scandinavians, the Anglo-Saxons, the Franks, Tungrians, Anglo-Danes, Norwegians, and Britons. This part contains seven beautiful outline engravings, (from drawings by Dr Meyrick) of Græco-Egyptian, Asiatic, Grecian, Etruscan, Roman, British, Saxon and Danish arms and armour. The Græco-Egyptian and Roman arms are drawn as well as grouped, with a correctness and taste highly creditable to this gentleman's talents as an artist. In the third page of the Introduction, our author, treating of the Ethiopians, says, 'the heads of their javelins were made of goat's horns sharpened.' It is perhaps a curious coincidence, and we therefore mention it, that the Pandarams or Senasseys of Hindostan, (a class of religious, who are, by profession, pilgrims to the various Pagodas, and form one of the many tribes of naked sages, or Gymnosophists' with which that sultry peninsula abounds),

arm themselves much in the same manner as these ancient Africans.

The initial letters of the several chapters which follow the introduction, are illuminated with an extraordinary care and richness; and the several reigns of William the Conqueror, William Rufus (who seems, by the by, to have been a knight himself of extraordinary prowess, and a great patron of all chivalry), Henry I. and Stephen, are illustrated with a variety of curious passages from Wace's '*Roman de Rose*,' from Ordericus Vitalis, Suger, &c. In Henry the Second's reign we find that that monarch added to the two Lions which the Norman Sovereigns of England had already assumed as the national device, a third; and it is pleasant enough to observe how the heralds, who have fabricated so many unintelligible monsters for the benefit of the unlearned, have themselves blundered in respect of these lions. They have generally attributed to the shield of the kings we have mentioned, two *Leopards*; and to that of Henry II. they have given a third. We now learn that William the Conqueror and his two sons had taken, not two *leo-pards*, but 'two *leos pardés*, or lions' *passant guardant*; 'one being the device of Normandy, and the other that of Poitou; and hence arose the mistaken idea, that the ancient arms of the kings of England were leopards.' Henry II. added to these two, the Lion of Aquitaine.

After some interesting notices relative to the first and second crusades,—their leaders,—the dresses, armour, customs, &c. of the troops, mention is made of the offers published (temp. Hen. II.) by Dermot, King of Leinster, inviting English knights to assist him in his attempts to recover his kingdom; and the following curious note is subjoined to the name of 'Richard, surnamed Strongbone, Earl of Strigul.'—'Strigul—This place is in Monmouthshire, where he had a castle. It is a corruption of 'Ystrad Jul,' or Strata Julia, being situated on the Roman road, made by Julius Frontinus, through that country.' This, like many others in the book, is truly a Camdenian etymology. Akin to it is that of Arundel, from Hiron-delle, a swallow.

On more than one occasion, we have had to remark upon the costly appointments and excessive revenues of the English prelacy; but there is a passage in the work before us, (which Dr Meyrick seems to found upon the authority of Stephanides principally), that does overwhelm us, even after all allowances made for the difference of the age,—of the power of the church,—and of the character of the prelates, as between the

reigns of Henry II. and George IV. ‘An important use of knights, and which long continued the profession, was the feudal obligation attached to all land, “that a specified number of knights should be furnished, at the call of the Sovereign, for a certain number of hides.” This equally held good, with respect to the real possessions of heiresses and the clergy, as of lay proprietors: and they were always obliged to retain the necessary quantity of knights to perform the service for them, as they could not do it in person. Hence we often find, in the enumeration of the possessions of a church, the land let, or given to knights, as the hire of their military services. The baron or his children might attend for themselves; but when their possessions were large, as a knight was to be found for every 15l. or 20l. a year of landed property, they were under the necessity of retaining many knights to fulfil their feudal obligation. Knights also became a necessary part of both regal and baronial “(qu—ecclesiastical?)” state. Thus, Thomas à Becket *had 700 knights as PART of his household, besides 1200 stipendiary retainers, and 4000 followers, serving him 40 days.*’ (p. 57). This account is enough, we think, to afflict every Archbishop of Canterbury, in these degenerate days, with a violent atrabilious attack.

In the conclusion of ‘Henry II.’ the Doctor suggests a confirmation of our old friend General Vallancey’s theory, of the Asiatic descent of the Irish, by a coincidence which none of the *litterati* of the sister kingdom have yet noticed, or will perhaps be very thankful to Dr Meyrick for having now brought forward. It is, that the Turkish custom, originally prevalent in Egypt, of cutting off the heads of fallen enemies, and depositing them at the feet of the conqueror, ‘continued in Ireland so late as the reign of Henry II., which may be considered as one probability of their Asiatic origin, so earnestly contended for by General Vallancey.’ (p. 68).

Under the head of Richard I., we are gratified with a large collection of curious anecdotes, relating to the prowess and the heroism of Cœur-de-Lion, and with some very learned and important notices in respect of the Greek fire, which was played with such tremendous effect by the Saracens;—of the war machines, which the Christians worked with so much skill;—and of the execution done by that destructive weapon the cross-bow. There is also an excellent description of ‘the Quintain,’ and of the joust and the tournament. The account which our author gives of the introduction into Europe of the interlaced chain-mail, of the trial by wager of

battle, and of the improvements in arms under Henry III., is exceedingly curious: But under Edward I., his wise and warlike successor, abundance of most interesting matter, as might be expected, is discussed. There is a curious roll of this King's expenses at Rheedlaw Castle, in North Wales, while on his Welsh expedition in the 10th and 11th of his reign;—it is preserved in the Tower of London, and our author has quoted largely from it. We extract only one item, premising, that archers were the best paid of the English infantry of that day:—
 ‘ To Master Robert Gifford ’ (not the Attorney-General),
 ‘ for the wages of six archers, newly come, from Friday 27th
 ‘ day of August, for the six following days - L.0 6 0’

This portion of the work is rich in descriptions of tournaments, and to us, therefore, (we confess), full of interest. Amidst all the splendour and decorations of knightly festivals and habiliments, it is curious to read (under Edward II.) an inventory which was taken, in the year 1316, of the arms and armour of Louis le Grand, King of France; from which it appears that economy was really at that time a royal virtue. One of the minutes runs thus:—‘ Item, une fleur de lys d’argent
 ‘ doré, de mauvese preuve, à mettre sus le heaume le roy.’—
 ‘ Item, a silver fleur de lys gilt, *not of standard value*, to place
 ‘ in the king’s helmet.’

Some extracts from the ‘*Speculum Regale*,’ which was written in the fourteenth century, and which, after describing the art of war, and the arms and machines then in use in the North of Europe, proceeds to advise the young knight as to the conduct he is to pursue both in and out of the field, are extremely characteristic and curious. His chief business, of course, is to be riding about in full armour; but when that is impracticable, other warlike pastimes are recommended. ‘ If you are in a
 ‘ market town where you cannot take your horse or use him
 ‘ for amusement, adopt this recreation. Go home and put on
 ‘ your heavy armour; then seek for one of your companions
 ‘ who will play with you, and whom you know to be skilled in
 ‘ fencing or sword-play, either with the greater or lesser shield,
 ‘ being always fully armed, even with your iron *lorica*,’ &c. The following maxim, however, is a little more pithy:—‘ Ab-
 ‘ stain ’ (says the sage instructor) ‘ from all kinds of homicide;
 ‘ unless it be for the legal punishment of crimes, or committed
 ‘ in open war: for in war, if you have the just commands of
 ‘ your prince, you are no more to abstain from slaughter than
 ‘ from any other act you know to be good and lawful.’ The
 following general order, too, is exemplary. There is something

superb in the project of giving a scale, according to which the ferocity of a well-bred gentleman in action ought to be graduated. 'In war, show yourself bold and spirited, *cutting and thrusting like a gentleman whose mind is somewhat excited to anger*, fighting according to the rules you have formerly learned.' (p. 195.) Prefixed to these whimsical regulations, however, there is a very elegant historical disquisition on the origin of chivalry, and the progressive refinement of the knightly character, when a romantic but humble spirit of religion, and a respectful devotion to the fair, were superadded to the prowess and hardihood of a warrior. It is thus summed up by our author.

'In the days of Rufus, these milder qualities began to take root, and the clergy, who did not anticipate their civilizing tendency, inculcated their effeminacy. By the reign of Edward III. they had established themselves in the knightly character; for though there was no code of chivalry at first, yet in this, as in most professions, the improved practice led some individuals to describe the customs which had become rules. L'Ordene de Chevalerie, by Hue de Tabarie, is of this sort. It is a poem containing a series of instructions supposed to have been given to Saladin when he applied to be made a knight; and an allegorical meaning is given to most of the ceremonies. Rufus was an example of chivalry in its ruder state; the Black Prince exhibited it in its last perfection; but after this time, the improvement of society having diminished its utility, it disappeared with the evils it had contributed to remove.'

At p. 201, we meet with one of those derivations (the word 'artillery') which, throughout this work, the author has shown himself so diligent in collecting, or so ingenious in devising, that if we proposed to do justice to his philological researches, we should really be compelled to devote too large a portion of our Number to that single purpose. This particular one is not, perhaps, very remarkable. 'All sorts of warlike machines,' he observes, were anciently called *Artillaria*, or 'artillery. The root of the word is *ars*—which was the barbarous Latin term for a machine. The fabricator of such implements was also called *Artillator*.' We like the following much better. 'From the circumstance of the *standard-bearers* of the Venetian army wearing tight hose, that kind of dress came to be called *pantaloons*—a corruption of *pianta leone*, i. e. "plant the Lion"—the *standard* of the Republic being the Lion of St Mark.' Though he admits that the earliest warlike sports of the people were called 'Troy games,' he contends that 'the derivation of the French word *Tourney*, from the Latin *Troja*, is inconsistent with reason-

able analogy—and concludes that the opinion of Fauchet, who thinks it came from the practice of the knights running *par tour*, or by turns, and wheeling about in a circle to renew their course, is probably the right one.' He is clear that the word '*hauberk*' is derived from the German word *hauen*—to hew or cut, and *berg*—a defence; and that it meant protection against cuts and stabs; in another place he says it is *hals berg*—a protection for the neck or *hass*. We also learn that the term *palettes* was originally given—*quasi epaulettes*—to the circular plates that were used in Henry IV.'s time to protect the shoulders of the knights in panoply; 'whence,' says our author, 'the circular pieces of wood or ivory used by artists to display their colours probably had their name.' The word *Bombard*, he says, is from the Greek *Βομβος*, expressing the noise made by it in firing, which seems to point out what country first invented this kind of cannon'—*à propos* of which, he quotes Froissart for 'an extraordinary bombard made by the people of Ghent, which was fifty feet long, and, when it was discharged, might be heard ten leagues off, making so great a noise on going off that it seemed as if all the devils in hell were abroad!' *Targe*, we also learn, originally signified, not a defensive, but offensive piece of armour—being distinctly used, in the 15th century, for a dagger or small sword. The French name of *destiers*, for the war-horses of the knights, is explained by their being commonly led in the right hand by the squires—an etymology that would appear quite unsatisfactory—if the Latin contemporary translation of *dextrarii* did not give it confirmation. For the etymology of *cannon*, he wavers between the notion of its being derived from the *cán* or *canister* in which the charge was introduced, and its resemblance to a hollow *cane* or reed. He is nearly as much perplexed about *pole-axe*;—and very sagely demurs whether it should be held to denote an axe used in *Polland*—or an axe intended to strike at the head or *poll*—or, finally, an axe stuck on a long handle or *pole*. *Henchman*, he is clear, is not from waiting at the haunch or side of his master—but from the Saxon *hengerr*, signifying a horse; and quotes Chaucer to prove, that this class of attendants always did duty mounted. The *hogueton*, or tunic worn with armour, he thinks, is the *χιτων* of the Greeks, and introduced, both in name and reality, in the time of the crusades—*hagbuts*, he thinks, were so called from the stocks or *buts* being *hacked* or notched to be held more steadily. *Musket*, he informs us, was used, before the invention of gunpowder, for a projectile machine; and, as most warlike implements were originally baptized from fero-

cious *animals*, probably derived its name from *muscetus*, a kind of hawk or falcon. *Dragoons*, he holds, were so denominated from the terror and velocity of their movements—because, according to Sir James Turner, ‘a musketeer on horseback, with his burning match, riding a gallop, as many times he doth, may something resemble that beast which naturalists call a fiery dragon.’ *Bachelor*, he thinks, is *bas chevalier*, or inferior knight—though some ingenious persons have derived it from *bas echelle*—the lowest step of the ladder. *Buckler* he deduces from the German *Bocklier* or goat’s skin, probably its earliest material. *Captain*, it seems, is Welsh—*Cad pen*, a chief of battle—we should have thought *caput* more likely. The *Mowbrays*, he tells us, put a mulberry tree in their device, to typify their name; but this is given rather as a pun than an etymology. *Spear*, he thinks, is merely *spar*—a straight pole. We must now break off, however, from this etymological digression—and hasten to the end of our very imperfect analysis.

The first volume closes with a spirited account of the battle of Bannockburn: for which the author professes himself largely indebted to Mr Sharon Turner. The second volume begins with the gallant and active reign of Edward the Third; and this portion is, as might be expected, full fraught with incident. It contains a splendid whole-length figure of Thomas, Earl of Warwick, Earl-Marshall of England. But we pass to ‘Richard the Second,’ in order to lay before the reader, two anecdotes which mark, in a singular way, that thirst for renown and recklessness of personal exposure which then formed the great characteristic of our Scottish Nobility. The first occurs in the following note to page 59, (vol. ii.)

‘Thus, at a jousting held on London Bridge, A. D. 1395, between David, Earl of Crawford, and the Lord Wells; the latter was, at the third course, cast from his saddle to the ground and much hurt;’ and Caxton, in his *Addit. to Polychron*, c. 7. p. 309, tells us, ‘That in the 17th of Richard II., the Erle of Moray, a Scotch Lord, challenged the Earl Marchal of England to juste with hym on horseback, with sharpe speres, and soo they roode together certayne courses, but not the full challenge; for the Scottyshe Erle was caste both horse and man, and two of hys rybbes broken with the same falle, and soo borne hym into his inne, anone after was carryed homewarde in a lityer, and at Yorke he dyed.’

The other anecdote may be familiar to the readers of Stowe; but it is too much in point to be omitted here.

‘Sir David de Lindsay, first Earl of Crawford, was at this time on a visit to London. He was attended by several gentlemen of quality, among whom was Sir William Dalzell, a man of lively wit, and

extremely clever. Chancing to be at the Court, he there saw Sir Piers Courtenay, an English knight, renowned for his skill in justing, as well as for the beauty of his person. He was with much vanity parading the palace, arrayed in a new mantle bearing for device, an embroidered falcon, with this rhyme;

‘ I beare a faulcon, fairest of flight;
Whoso pirceth at her, his death is dight,
In graith.*

The Scottish knight appeared next day in a dress exactly similar to that of Courtenay, but bearing a magpie, instead of the falcon, with a motto ingeniously contrived to rhyme to the ranting inscription of Sir Piers;—

‘ I beare a pie, picking at a piece,
Whoso picks at her, I shall peck at his nese
I-faith.’

‘ This affront could only be expiated by a just “*a outrance* ;” that is, with sharp lances. In the course, Dalzell left his helmet unlaced, so that it gave way at the touch of his antagonist’s lance, and he thus avoided the shock of the encounter. This happened twice. In the third encounter, the handsome Courtenay lost two of his front teeth. As the Englishman complained bitterly of Dalzell’s fraud in not fastening his helmet, the Scotchman agreed to running six courses more; each champion staking, in the hand of the king, 200*l.*, to be forfeited, if, on entering the lists, any unequal advantage should be detected. This being agreed to, the wily Scot demanded that Sir Piers, in addition to the loss of his teeth, should consent to the extinction of one of his eyes; he himself having lost an eye at the fight of Otterbourne. As Courtenay demurred, Dalzell demanded the forfeit; which, after much altercation, the king appointed to be paid to him; saying, he surpassed the English both in wit and and valor.’

After some curious facts relative to the very early use of heavy artillery by the Italians and French, and the practical advantage which the latter derived from it in 1405, at the siege of Mortaign; we find it stated, on the authority of Juvenal des Ursins (who wrote temp. Charles VI.), that hand-cannons, as he calls hand-guns, were first used in 1414, at the siege of Arras. That accomplished warrior, our Henry V., however, seems to have been, of all the Captains of his age, the most clearly convinced of the overwhelming superiority of heavy ordnance, over all other offensive weapons, or machines, and the most eager to provide himself with ample magazines of all the stores necessary for their service. ‘ In the year 1414, Henry V. commanded the collectors

* ‘ In armour :—according to Sir Walter Scott.

‘ of the port of London and other ports, not to suffer any gun-powder to be carried out of the kingdom without the king’s special license. In 1418, he ordered the clerk of the works of his ordnance to procure labourers for the making of 7000 stones for guns, of different sorts, in the quarries of Maidstone, in Kent.’

At page 176, we are presented with a plate representing ‘ Sir John Crosbie and a serjeant-at-arms.’ Sir John was an alderman; and in the history of our modern Parliaments, aldermen and serjeants-at-arms associate very naturally; but it is rather startling to find an alderman, equipped as a gallant soldier, in complete armour, and a serjeant-at-arms, fulfilling, by his appearance and costume, which are both warlike enough, the seeming import of his name. Throughout the whole work, indeed, there are few more imposing heroes, in all seeming, than this Sir John. That prince of knights, Richard Beauchamp, Earl of Warwick, sustains, in the account of Edward the 4th’s reign, a most majestic figure; particularly in the narrative of the tournaments given in honour of Edward’s Queen, Joan of Brittany. But we have no room for these busy and sumptuous descriptions; and shall only say, that, for our own parts, we prefer that of the famous passage of arms at Ashby-de-la-Zouch in *Ivanhoe*, to any of the more authentic records with which we are here presented. Dr Meyrick, however, to do him justice, is not so much dazzled with those grand and animating parts of his subject, as to neglect or disdain the humbler and more homely inquiries into which the faithful discharge of his duty occasionally forces him to descend. On the contrary, he has actually the resolution to turn from the endearments of an empress, to examine the fashion of an Earl of Warwick’s small clothes! He is describing the illuminations prefixed to the several chapters of a MS. in the Cotton Library, entitled ‘ the Life of Richard Beauchamp, Earl of Warwick,’ &c.

‘ The tenth “ shewes how a mightye Duke chalenged Erle Richard for his lady sake; and he justyng slewe the Duke; then the emperesse tooke the Erle’s liverye *a bere* from a knyghtes shuldre; and for grete love and favoure she sette hit on her shuldre; then Erle Richard made vone of ferle and precious stones, and offered her that; and she gladly and lovingly received hit.” There is nothing particular to distinguish this (adds Dr Meyrick), “ except that *the breech* appears to be of leather, slit at the end into a kind of fringe,” &c.

The 53d plate of this work represents a suit of armour in the possession of L. Meyrick, Esq., (the son of the author), of the

time of Henry VI., and, with the exception of another of the same date, and in the same collection, the oldest, probably, now existing in England. It was brought from Naples, having been purchased of one of the descendants of the Caraffa family, and seems chiefly remarkable for the ponderous protection which its tripled plates were calculated to afford the wearer; it is precisely the *æs triplex—circa pectus*, with which Horace has somewhat oddly invested the first adventurer who launched his 'fragilem ratem' on the ocean. This suit serves either for the field of battle, or, by the addition of what is called the 'great guard,' and about another ton of steel defences, for the joust.

The third volume brings the Inquiry down to the reign of Charles II., when the use of body-armour may be considered to have finally disappeared. The account which this last volume contains of the invention and gradual perfection of small (fire) arms, is minute, clear, and satisfactory; and it is really matter of regret to us, that we have no space to give even an abridged account of it. At the conclusion, the able description which it gives of the Armoury in the Tower, and its present condition, will be perused not without some surprise, but certainly with considerable profit, so far as instruction goes. The dignified history of the Spanish Armada collection, and the antiquity of two-thirds of the remainder of what is exhibited there, vanish, like the palace of Aladdin, before the spell which our author seems to possess of *historic truth*. From much that is important, however, we can only afford to extract this whimsical identification.

'On examination of the armour on the figure of Elizabeth, it appears that the fluted breastplate she has on belonged to her father; and the "*garde-de-reine*" (i. e. the projecting skirt (as it were) of armour, which is meant to protect the hinder parts of the person,) with the conjoined rose, did so too; but it is put on *her Majesty's abdomen*! certain it is, she could not have worn it in a sitting posture.' Subjoined to the third volume is a Glossary of Military Terms; the most copious, clear and useful, we ever remember to have seen. This has long been a 'desideratum;' but the most sanguine of our antiquarian readers could hardly have expected to see it accomplished in so complete and able a manner.

The general execution of the work does the publisher, and, in an especial manner, the printer, (Mr Schulze), very great credit. Looking to the number and beauty of the embellishments, (eighty coloured plates, besides illuminated capitals), we cannot say that the price of *twenty guineas* is a heavy one. Our

objection, generally, to high-priced books, and to any system of publication which tends to put information out of the reach of the majority, even of the curious, is well known. But we cannot, in fairness, extend it to a production, the getting up of which must have required a considerable outlay, and which is meant as a graphic text-book for future artists in respect of costume. The gold and silver are laid on with great delicacy, but, we think, rather too profusely; and the more so, because this mode of ornamenting coloured prints is at all times meretricious and faulty. The metal admitting of little or no shading, 'is always prominent where it ought to be kept down; and thus the keeping of the drawing is spoiled. It must be confessed, on the other hand, that the ground of dead silver, upon which some of the initial letters of the chapters are raised, has an effect that is extremely beautiful.

But, from the praise that we have felt disposed to confer upon this 'Inquiry,' we must make a few exceptions; and these are certainly to points of minor importance. In the *first* place, like all large works, now that it is complete, one cannot help perceiving, that the arrangement might have been better. It is not that we object to the chronological order, which has been observed in the description of the armour worn under the successive reigns of our monarchs, from William I. to Charles II. That, on the contrary, is an arrangement, to the advantages of which every artist, or other person who has to make a reference to the work, will be immediately alive. But we find many facts stated twice over, and with such a degree of 'pomp and circumstance,' as would seem to imply, that, through some oversight, the author himself was not aware of their previous recital. In the *second* place, the constant repetition of the phrase, 'in the collection of Llewelyn Meyrick, Esq.,' is nothing short of annoying. It may be very true, that it is of some moment to state the fact, that such a weapon, or such a suit, is to be found in that gentleman's collection, (and a very superb one we have understood it to be); * but the circumstance ought rarely, if at all, to occur in the text;—it is matter that should enter the modest rank of the notes; for, standing in the relation which Dr Meyrick does, to the owner of the armoury, it is not altogether graceful in him to be its perpetual herald. All this, we doubt not, is merely accidental;

* The author himself states it to be 'the most instructive collection in Western Europe.'

and we as little doubt that the author will, ere long, have an opportunity of considering the propriety of remedying these defects. We observe, moreover, that he seems to labour under the cruel and unsightly affliction of translating all the passages he quotes, with a stern and rigorous precision. Dr M. must be perfectly aware, that a literal is not on that account always an accurate translation. The idiom of an author is sometimes as little to be accommodated in the trammels of another language, as a modern toxophilite would find himself in the habiliments of an ancient archer; and though it may be very essential to the author's purpose, to render *names* and *terms strictly*, in order to analyze, derive and understand them, that can be no reason why the rest of the passage should be put in the same species of pillory. The pillory, indeed, is too mild a designation for the punishment to which some of the extracts have been submitted; for, seeing that they are englished into the same number of lines (in many instances), to the great discomfiture of all the perspicuity and arrangement which the original writer may have proposed to himself, they may rather be said to have been laid upon the bed of Procrustes. We mean nothing harsh to Dr M. by these observations; on the contrary, nothing so strongly induces us to press upon him the expediency of allowing himself a little more freedom, in his treatment of poets, historians and chroniclers, as the incontestable evidence of his ability to do so, which he has furnished in the pleasing and elegant Preface to his book. To these suggestions we would add, that a copious index would be extremely useful.

Having thus endeavoured to convey to the reader some idea of the merits and execution—though we can give but a slight impression indeed, of the interest of Dr Meyrick's work,—we may be allowed a remark or two upon a subject immediately connected with his subject. We mean the future arrangement and appropriation of the Horse-armoury, or, more properly speaking, of all the old armour and arms in the Tower of London, to which, now that the spirit of collecting these proud and frowning relics, is (as we trust) awakened, we hope to see added, very shortly, from their ruined but lordly prisons, in all parts of the kingdom, still more antient memorials of illustrious nobles and victorious captains.

Long before the sagacity and indefatigable research of Dr M. had enabled us to detect in something like detail, the multifarious absurdities which are inflicted by the plethoric yeomen of that fortress, upon all the victims, old and young, of the

Royal Collection. We could not help suspecting that most egregious forgeries were every day fabricated by our scarlet friends for the delusion of the unwary.* It was difficult at least to suppose, that the same armourer worked for William the Conqueror and Queen Elizabeth; and though we have (upon holidays) a large faith for seeming discrepancies, and a becoming acquiescence in apparent anachronisms, we have been compelled to shake our heads at some two or three of the Tower legends, touching the right property of various suits of armour, more or less remarkable; and the actual effect of certain arms, and other 'munition of war' which have long been deposited in their present sanctuary, in an inglorious but innocent repose. There is a story attached to a wonder-working mortar, aged about three centuries,—that is too long to be repeated here, but would have overmatched the respectful credulity of Sir Roger de Coverley himself. And we could never see, without feelings of considerable indignation, the heroic bosom of the proud Elizabeth, incased in that which is impudently asserted to have been HER corselet, but which is now ascertained to have originally protected the sitting part of her jolly Sire. We need not, however, be at much trouble in stating reasons for a re-arrangement of the collection in the Tower. The gross ignorance which is displayed—not only by those who exhibit it, but by those who originally got it up, as it is termed—must shock every man of the least historical information; and when we find, upon the indisputable data, which are adduced for this opinion, by Dr Meyrick—'that the Tower of London contains no armour of a date anterior to the reign of Henry VII.,' it is too much to be called upon to accept a long line of wooden-steeded monarchs, commencing with the Norman, as bearing their own genuine panoply of battle.

There is something so noble and generous in the associations which an inspection of the armour of our ancestors excites in us, that it may be doubted whether a superb collection of this kind be not rather matter of state policy, than a mere splendid appendage to the dignity of the Crown. If the recollection of the glory of past ages can be thus evidenced, as it were, to the senses;—if the ambition of young and ardent spi-

* Dr Meyrick, having lately inspected the Arsenal, &c., at Vienna, has subjoined to his work an Account of the Little Belvidere and the Ambros Collection of Armour; from which it appears, that the art of 'humbugging' is not peculiar to Great Britain.

rits can be aroused, by the visible presence and actual contact of those arms in which the Plantagenets and the Tudors,—the scions of York and Lancaster,—the De Veres, the De Mowbrays, the Douglasses,—the Clares and the Nevilles,—the Talbots, the Percys and the Devereux,—have earned in blood the green laurels which yet flourish, after the lapse of centuries, above their graves;—if that honourable emulation, which, scorning the sordid aids of interest and intrigue, would work its own passage to honour and distinction, is animated by the memory of those brave soldiers who conquered renown, and bore away their rewards on the sands of Palestine, in the fastnesses of Wales, among the mountains of Asturia, in the plains of France, and on the moors of Scotland;—of how great moment is it that these venerable remains should be properly ordered and arranged, so that the enthusiasm of imitation may not be checked by any obtrusive and uneasy doubt, whether (for example) that which is shown for the helmet of the fifth Harry be not in reality the morion of one of King Charles's troopers? We say nothing of the national disgrace that attaches to the circumstance of countenancing any flagrant errors in that which may be called a national collection. There can be little difficulty experienced in the emendation of those errors, now that our author has discovered, furnished and proved the rules, by which every requisite inquiry can be satisfactorily and immediately answered. If, however, there should be, it is impossible to doubt, from the scientific zeal, and the tone of liberal feeling, by which the book before us is distinguished, that Dr Meyrick would willingly contribute to such an object, the benefit—not only of his extraordinary knowledge, but also of his good taste.

It might then remain to be considered, whether the Tower of London will be a fitting depository for such a collection, when its arrangement shall have been so remodelled. But we are spared the necessity of pursuing this consideration by the reiterated complaints that are heard, in every Session of Parliament,—that room is wanted at the Tower for the 'ordnance stores.' But it does appear to us, that it would be at once a saving of vast expense,—an improvement in the magazine of ordnance stores,—and an admirable ornament to the chief treasure of art and science in this country,—if the whole of the armour and arms in the Tower of London, that are not efficient for the purposes of modern warfare, and are in any degree remarkable either for their beauty or their curiosity, were removed to the British Museum. The munificent donation by his present Majesty of the late King's library, has rendered additional buildings necessary for

its accommodation; and, seeing that the extensive fabric which has been projected on that account, by the classical genius of Mr Smirke, is already commenced, and promises to be of prodigious capacity:—surely its walls must be the most fitting asylum for the war and time-worn habiliments of the old and redoubted Barons of England. In the immediate vicinity of the ancient trophies of Marathon, and the rust-eaten arms of the legionaries who fought under the standards of Agricola and Severus, let the swords and helmets be deposited of the more modern, but not less valiant warriors, who achieved the battles of Crecy and Agincourt—of Ascalon, and Chalons, and Najara.

ART. V. *Essays on Constitutional Law and the Forms of Process, containing Suggestions for shortening the Duration, and lessening the Offence, of Judicial Procedure in the different Courts in Scotland.* By WILLIAM RITCHIE, Solicitor of Supreme Courts in Scotland, &c.

SEASONS of political commotion, though often the only opportunities allowed for the adjustment of political rights, certainly are not the best fitted for their wise and deliberate settlement. It was, therefore, fortunate for England, that the encroachments of the Stuarts, which at last made rebellion a virtue, did not take place till after the Constitution had been in a great measure matured. This gave the people certain great and fixed points to look to; and made them feel, that all they had to do, in order to secure a good practical Government, was to put down the usurpations by which the forms and the principles they had long been possessed of had been recently invaded. The Revolution did not create their liberties, but only restored and defined them. It was not so with Scotland. With reference to public freedom, her Government had always been very defective in theory, and generally utterly detestable in practice; in so much, that, even although she had been exempted from the tyranny under which the sister kingdom suffered, she could not have gone on, as England with the same exemption might, increasing for ages in happiness and security. She had not succeeded in organizing even the elementary forms of a free constitution, and had never been accustomed to the regular enjoyment of popular rights.

One bad effect of this was, that when the Revolution came, its object being not so much to new-model the constitution of either quarter of the Island, as to undo recent usurpations, it left Scotland, no doubt, infinitely better than she was before, but still

in a very defective condition. The abuses to which this part of the kingdom had been subjected, were so cruel and monstrous, that the people were induced to think, that if they got rid of these, every thing else was unimportant, or might be tolerated. If they had had more experience, they would have taken that occasion to make a thorough revision of their whole system; but they were so far behind in the science of liberty, that they aimed at little more than putting a period to the existing troubles; which indeed were so frightful, that even sagacious men may well be excused for having allowed them to absorb all their thoughts. But this was unfortunate; for it not only left defects in the fabric of the government, which, it might easily have been seen, must always be dangerous to liberty, but it left these to be confirmed by the circumstance, that they could not afterwards be changed without interfering with what had been understood to be a general settlement of all complaints.

The Union afforded a fit opportunity for supplying this omission. But it also was lost; and chiefly from the same cause. The nation was not sufficiently advanced, and was too much occupied with immediate grievances, to enable its leading men to perceive,—or at least to have any chance of correcting,—imperfections which, by that time, it might otherwise have been confidently anticipated that a future age would suffer from and object to. Accordingly, though the Union and its terms were keenly contested for many months, it is surprising how little discussion seems to have taken place on questions connected with the preservation of public liberty. Those who were pledged to support the measure, seem to have been only anxious to carry it any how;—those who took an interest in the terms, aimed only at commercial or fiscal advantages;—while those who were altogether hostile, wasted themselves in idle declamation about the independence of their ancient mother Caledonia; and there does not appear to have been a single person who had vigilance and sagacity enough to look forward to the future operation of the different parts of the government they were bequeathing to their country, or to think how little they were securing for distant ages, when the recent atrocities would all be matters of tradition, and new grounds of alarm for tyranny in a different shape might arise. The result was, that we were left infinitely too much at the mercy of the dangerous forms and flexible principles to which we had been anciently accustomed; and, accordingly, that the only substantial progress that Scotland has made in purely political improvement since the junction of the kingdoms, has been owing indirectly to its enjoying the protection of the English Parlia-

ment, and being made acquainted with the free feelings of the English people.

These defects are to be found in almost every part of our system, of which the preservation of liberty is, or ought to be, the object; and they are certain to stand out more and more conspicuously hereafter, according as the nation shall advance in public spirit and intelligence. Whether the institution we now propose to examine, falls within this description or not, every person must judge for himself; but, one way or other, it affects every thing in Scotland,—and therefore is well worth being examined. We allude to the office of Lord Advocate, and to certain matters with which that office is inseparably connected.

This is a subject on which, with reference to the actual nature of the office, there has lately been a complaint that very little is known; and therefore we understand, that, in consequence of the difficulty which Parliament has occasionally felt in comprehending its exact character, it has often been proposed, even by members of administration, to get its mysteriousness removed by the labours and the report of a Committee. It is under the influence of the same ignorance, that we sometimes hear, what appear to us to be extravagant remedies proposed, both by the enemies and the friends of reform, for very fanciful objections to this institution; and therefore, in order that the attention of the public, which is beginning to be awakened to these Scottish matters, may neither be relaxed nor misdirected, we shall now endeavour to explain what is the real condition of the office, and what is the extent of the reformation, if any, which it appears to require. We may premise, that with its mere history we have nothing to do. However interesting it may be to the antiquarian to trace its origin and progress, our concern is with its present practical state and tendencies. The result of any inquiry beyond this, we are satisfied, would be, that there is nothing, however absurd, illegal or inapplicable to modern usages, for which abundance of precedents could not easily be found in the ancient proceedings of an establishment, which was then little else than an engine of power in barbarous and irregular times.

First. The Lord Advocate, who, so far as we know, has invariably been, and must always be, a member of the Faculty of Advocates, and who is appointed and removed at the pleasure of the Crown, is the general *Public Prosecutor* for Scotland. Private prosecutions for criminal offences are not absolutely forbidden by the Scotch law; but they are much discouraged. It requires a peculiar and very direct interest to entitle a pri-

vate person to institute such a proceeding; and even when the right to do so exists, the individual vested with it is exposed to various inconvenient restrictions. He is obliged, for example, to begin by finding security for the payment of certain penalties if he fail to insist; he must then take an oath that he believes his complaint to be well founded; he has to pay his own costs; and, if the case be decided against him, he must generally pay those of the accused also; he is under the necessity of attending all the proceedings personally; and there is very little protection against the disclosure of informers, or actions of damages. Practically speaking, therefore, private prosecutions are almost unknown. Every offence which is to be prosecuted, as all the material ones are, in the Court of Justiciary, which is the Supreme Court for the whole country, is not only charged in the name, but is conducted by the directions, of the Lord Advocate, or of those who act under him; while slighter delicts, which are tried before the local magistrates, are prosecuted and conducted by an officer called the Procurator-Fiscal, who, in various respects, but chiefly in this right of prosecution, is, in his district, what the King's Advocate, by whom however he is generally liable to be superseded even there, is to the country at large. In the exercise of this privilege, his Lordship is invested with a very large discretion. Indeed, however he may be indirectly controlled by Parliament, or by public opinion, his discretion, in as far as strict law is concerned, is almost unlimited. It is not positively settled whether he is bound, in any circumstances, to give up the name of his informer; but it would certainly require a very extraordinary case to force him to do so, and we do not know that it has ever been done. He is not bound to explain the grounds on which he either accuses, or abstains from accusing. Neither he, nor the Crown which he represents, are liable in any costs; and without a prostitution of his office, so plain and gross that it can scarcely ever be supposed to be committed, he may safely smile at every threat of damages. In other words, he is the absolute Monarch of this great department of criminal justice.

Secondly. In thus prosecuting, or declining to prosecute, he is not controlled by any thing like the Coroner's Inquest, or the Grand Jury, in England. These institutions are utterly unknown in Scotland.

Thirdly. The privileges given by law to the prisoner, after he thus becomes an object of official accusation, are not great. In order to understand them, different cases must be supposed; 1. If his Lordship, after preferring the charge, chuses to refrain from detaining the accused in prison, and from indicting,

we know nothing to hinder him from keeping the accusation hanging over the head, and over the character, of the person to whom he has attached it, for twenty years. If he imprisons, the prisoner has a remedy under a statute to be named immediately; or if there be an indictment, the accused may demand protection from the Court. But if he does nothing but accuse, that is, if he merely prefers the charge and gets the person committed, and then consents to his liberation, we are not aware of any *legal* remedy that the accused has in order to avoid the anxiety and shame of being thus charged, except to wait for twenty years; after which, it is understood that the right of prosecution is barred by the mere lapse of time. 2. If the imprisonment be insisted on, the prisoner can only get out of confinement by finding bail, if the offence be bailable; or, if it be not bailable, or if he cannot find bail, by availing himself of the provisions of a statute passed by the Scottish Parliament in the reign of Queen Anne, which, from its date, is commonly called the Act of 1701. This statute prevents the extension of confinement of persons in custody for trial beyond a certain period. But then, if the prisoner does not chuse, or if he neglects, to make a formal application to the Court for the benefit of this act, it does not reach his case, and he may lie in jail untried till the said twenty years be out. 3. When the prisoner does avail himself of this statute (the benefits of which cannot be withheld from him while he is forced to continue in jail), the advantages which it gives him are chiefly, that he must know his accuser and his crime, and have his trial brought on and finished within a computed time. The length of the time depends on the proceedings of the accuser, and the adjudged cases show that it is often a matter of excessive difficulty to ascertain it; but it is now quite certain, that it may be extended in every case to 140 days, or to nearly five months. For this period, the Lord Advocate is entitled, certainly not without control, for he is accountable to Parliament and to the public, but without any regular legal check, to cause the incarceration of any individual in Scotland, nearly at his own discretion.

Fourthly. When the prisoner is at last about to be brought to trial, he must have his indictment, with the names of all his jurors and witnesses, and a specification of all articles of written evidence at least fifteen days before; and at the trial he always has counsel, who are entitled to address the Jury on his behalf, and who, in all discussions, have the benefit of speaking last. These are great advantages, no doubt; but still there are some peculiarities in his situation which must be taken into view in forming any fair estimate of the powers of his accusers. 1st, We have formerly explained, that there is as yet no law which

secures perfect impartiality in the preparation of the lists of the Jury, and that the fifteen persons who are to try the case are named by the presiding Judge. *2dly*, It has been decided by the Court of Justiciary to be law, that that Court may, as it is usually expressed, *declare new crimes*; that is, declare acts to be criminal which were never heard of as criminal, or perhaps never heard of at all before. 'It seems to be held in England, (says the leading modern authority on Scotch Criminal Law*), that no Court has power to take cognizance of any new offence, although highly pernicious, and approaching very nearly to others which have been prohibited, until some statute has declared it to be a crime, and assigned a punishment. With us, the maxim is directly the reverse; that *our Supreme Court have an inherent power as such, competently to punish (with the exception of life and limb) every act which is obviously of a criminal nature, although it be such, which, in time past, has never been the subject of prosecution.*' This is elsewhere called by the same author, 'the *native vigour*' of our criminal law (vol. i. p. 436.) *3dly*, All the judgments of this Court are irreversible from the moment they are pronounced. There is not only no appeal to any other tribunal, but no power even by that Court of reviewing any of its own sentences, or of judicially consulting any other Judges.

Fourthly. The Lord Advocate has not only these privileges in his own person, but, besides being aided by a Solicitor-General, he has the power of splitting himself into various parts, by a nomination of Deputies, each of whom has the same authority with his constituent. We are not aware that there is any limit to the number of representatives whom his Lordship may thus appoint; but those who act are in general only three. They must be of the legal profession, and are commonly young men. The Lord Advocate is held to be responsible for them; and therefore, however difficult it may be in practice to make any one who is personally innocent, responsible for the official conduct of another, he alone appoints and removes them at pleasure. So that there are thus prosecutors in the country, who, though they act in the name of another, yet perform the great mass of the criminal business, including the resolution to try, without having their qualifications previously known to, or being directly named by, the State.

Fifthly. To all these merely legal powers, there is invariably joined another, which is apt to affect the exercise of all the rest, to an extent which neither the law nor practice has exactly defined, but which is very considerable. The Lord Advocate is the organ of the Administration under which he acts, in matters

* Hume's Criminal Law, Introduction, p. 12.

purely Political. It is from this that the principal dignity and influence of his office is derived. He is not only the professional adviser of the Crown in legal affairs, but he necessarily obtains and holds his situation solely on condition of his supporting the interests of the party that promotes him; and in order that he may do so the better, it is quite well known to every body whom he may have occasion to address or act with, even in his proper official character, that he engrosses a very large share of irregular and undefined, but, for this very reason, of most effectual patronage.

These are the principal circumstances which distinguish his situation. Whatever opinion may be formed of the expediency or in expediency of their operation, these are the facts. That they vest this office with power, which is not only prodigious in extent, but not subject to any regular and familiar control of a legal character,—by which we mean any control liable to be enforced, like other matters of right, by ordinary applications to a Court of Justice, and not resolving merely or chiefly into what is called the responsibility of the servants of Government—is beyond all question. This may be quite proper; but no one who is aware either of the theory or of the practice of this office, can honestly dispute the fact, that its privileges are as extensive as we have described them to be. So far as we know, there is no one man armed with so great a power in any government professing to be free, in Europe; and certainly there is no other within the sphere of the British Constitution. It is difficult to add much to a power which is so great, that it enables its possessor to imprison, for 140 days, or, which is often of more importance than even this positive act, which enables him to abstain from trying or imprisoning, or, in other words, to give an indemnity to all those who he thinks deserve it. Accordingly, the report of the proceedings in Parliament show, that those who have enjoyed this office have, at different times, described it as virtually engrossing all the other powers of the State. It has been said advisedly, and on the most solemn occasions, that the Lord Advocate is the Privy Council of Scotland,—the Grand Jury of Scotland,—the Commander-in-chief of the Forces of Scotland,—the guardian of the whole police of the country,—and that, in the absence of higher orders, the general management of the business of Government is devolved upon him.

Thus, a discussion arose in the House of Commons, in the year 1804, which turned upon the nature of this officer's powers; and the gentleman who then held the situation, and was well acquainted with its privileges, both by learning and experience, is said by the Parliamentary Reporters to have given the fol-

lowing account of them. ‘ They, Sir, who judge of the office of Lord Advocate for Scotland, by a comparison with the dry, formal office of Attorney-General in this country, have, indeed, formed a most erroneous opinion on the subject. The honourable gentleman has professed his inability to explain to the House the various and complicated duties of this office. I wish that I could, within any reasonable compass, define its duties; for then, I can assure the House, that, though *extensive almost beyond conception*, they would afford me ease and retirement, compared with the endless succession of duties which now successively pass under my review. It will be necessary for me to say a few words here respecting the executive government of Scotland previous to the Union. At that period, the *Lord High Chancellor*, the *Lord Justice-General*, the *Lord Justice-Clerk*, the *Lord Privy Seal*, and the Lord Advocate, were the constituent members of administration. From a variety of causes, these have successively disappeared. The Lord High Chancellor is no longer in existence. The Lord Privy Seal exists merely for the purpose of appending the seal of Scotland. The Lord Chief Justice-General is the mere nominal head of a Court at which he never presides. By a special act of Parliament, the Lord Justice Clerk can have no seat in the House, and is wholly confined to his own Court—under these circumstances, Sir, *the whole of the duties connected with these various departments have now entirely devolved on the Lord Advocate of Scotland*. To him all inferior officers look for advice and decision; and, *with the greatest propriety, it may be said that he possesses the whole of the executive government of Scotland under his particular care*. I, Sir, have found in my own experience, how *boundless* are the duties which this office imposes. It has fallen to my lot, in a thousand instances, not only to give advice on subjects connected with my professional pursuits, *but on subjects altogether foreign from my habits of life*. I have often been under the necessity of giving advice in matters *purely Military*, and to endeavour to remove difficulties which had occurred in arranging the means of national defence. *I may state, without exaggeration, that since the first passing of the acts for the defence of the country, I have given to Lord Lieutenants, and others employed in carrying these acts into effect, no less than eight hundred different opinions on the subject of military arrangements.*’

Many of these pretensions have been scouted by some people as extravagant, and even ludicrous;—but we see nothing ludicrous in them. It may possibly be true, that a few of them are not clearly founded in strict law; yet, as the office is allowed to be practically managed, every one of them is rather un-

derstated. The truth is, that our Prosecutor's mixture of general political superintendence with undefined legal rights, makes it difficult to say what privileges he has not, or at least will not be held to have, whenever a particular case occurs in which it is necessary to answer a complaint by reference to the nature of his situation.

This has given rise to two opposite opinions as to the course that ought to be pursued with respect to it. Some are for an instant and complete abolition of the place, which they hold to be, even on ordinary occasions, an utter abomination. There are others again who think that it does not require to be even corrected; but that, though it be an institution which could not possibly be transplanted into any other part of the British empire, it does excellently in Scotland, and is indeed the principal cause of that administration of the common law which these persons hold to be the boast of this part of the kingdom. The reasoning of the former class does not require to be explained. It consists in referring to the preceding facts. The reasoning of the latter class is this. They say that the office was instituted as a protection to individuals against unjust accusation, and a protection to the public against there being no accusations at all;—that the duty of thus investigating crimes and suspicions requires very great discretionary powers, the exercise of which ought not to be lightly questionable;—that, to prevent abuse, however, the Lord Advocate, as such, must hold a high place in the State, and be much in the confidence of the executive government;—that this elevation is a security against any prostitution of his office;—that the very greatness of his power, by keeping up a constant jealousy, is the best security for his moderation;—and that a single individual, experienced in law, eminent in dignity, and removed from temptation, is at once a more intelligent and a more responsible instrument than either grand juries, or any thing else that has ever been invented for the purpose of uniting complete vigilance with complete impartiality in the prosecution or the non-prosecution of crimes.

Lest it should be supposed that we are not doing justice to the last of these views, we shall state it in the words of the author already quoted, whose authority on these subjects is the more important, from his intimating in his introduction, that he was partly induced to publish his work by '*the desire of rescuing the law of my native country from that state of declension in the esteem of some part of the public, into which, of late years, it seems to have been falling.*'* Acting under the influence of this consideration, the following is the answer made

* Hume's Commentaries. Introduction, p. 4, edit. 1819.

to the objection we have referred to. There are no italics in the original; but we have printed such of the words in that form as seem worthy of the intelligent reader's special notice.

'I think it may also be doubted whether the complaint is better founded respecting that part of our system which lodges the power of prosecution with a public officer, the Lord Advocate, by whom it is exercised according to his own judgment and discretion. For what are the evils which have been found in practice to attend this plan of accusation? Or is it not rather certain, that, to this very course of proceeding, *which places the entire responsibility for all prosecutions with one individual* of high rank and reputation (who therefore, on his own account, will be cautious and reserved in the exercise of his powers), we owe the singular and constant moderation which has prevailed, *time out of mind*, in the administration of this part of public justice. Certainly it cannot be disputed, that, by this contrivance, the Prosecutor is most effectually removed from the contagion of that popular prejudice, either for or against the accused, which is apt to arise in any case of an extraordinary or interesting nature. And, with respect to the risk of the influence of the Crown, *it is true, that, in an arbitrary government, where the whole frame and order of things tends to make the favour of the sovereign the chief object of regard and the sole means of preferment, such an institution might be made an engine of injustice.* But there is no inference from thence to the situation of things in this country, *where such is the care of freedom and love of justice, and such the high influence of the popular part of the Constitution,* and any person holding the office of Lord Advocate, who should strain his powers, or pervert them to oppressive purposes, would injure alike his own reputation and fortune, and the service of the Crown. And as, on the one hand, the inhabitants of Scotland have nothing to fear, *and, in truth, have never suffered* (since the Revolution at least) from the privileges of this office, so, on the other, it is impossible to deny the high and extensive benefits which attend it, in maintaining the police of the country, and securing the prosecution of every criminal whose case requires it, without any trouble, or a shilling even of expense to the party injured.'

Both of these views are incorrect; and the real truth will probably be found to lie between them. A distinction must be attended to which is plainly overlooked in each.

In *ordinary cases*,—that is, in cases not affected by political considerations,—the absence of all interest or prejudice may easily enable the good sense or humanity of those who are at any time intrusted with the office, to overcome its defects in their practice; and we presume that it is only of such cases that those are thinking, who make general panegyrics on the institution itself. Even with this restriction, they are not always correct: witness the monitory case of Campbell of Glenure in 1752; and the almost constant support, or rather invi-

tation, which has been given to the Court in its claims to the exercise of those powers, such as that of enacting new crimes, which, even though they be founded in barbarous law, it is plain that no court ought to exercise, or ought to be encouraged to think of as falling within its sphere. But it may be conceded that, in general, the practice of the office has, in ordinary cases, been judicious, moderate, and impartial. The great wonder, and the just praise, is, that a system so liable to abuse has been abused so little.

But, as Cicero says of a Roman prosecutor, ‘Nulla est laus ibi esse integrum, ubi nemo est qui aut possit, aut conetur, corrumpere.’ These are cases in which there is no temptation to go wrong. How does the truth stand when it is tried by the touchstone of one of those questions in which the fate of an administration is involved,—or the conduct of its local representatives is at stake,—or party interests and feelings are even implicated? Is it indeed true, that, *on such occasions*, ‘the inhabitants of Scotland have nothing to *fear*, and, in truth, *have never suffered* (since the Revolution at least) from the privileges of this office?’ Let history answer this question. We must decline entering into any details; partly because each instance of alleged suffering would open up a field more extensive than we can allow for the whole subject, and partly because the proper reply to such propositions, when viewed, as we view all this matter, with reference to the principles of an institution, and not to the conduct of any individuals, consists in appealing, not to what has taken place in detached cases, but to what the tendencies of the institution entitle us to hold must always take place, were it even administered by angels. It is a degradation of the cause of truth to descend to any other refutation, except that which rests solely upon the known moral nature of man. Sir George Mackenzie, the Lord Advocate of Charles the Second, a very learned and eminent person, has an argument, in his Treatise on our Criminal Law, against the expediency of Juries in penal trials. Part of his reasoning is founded on the evidence afforded by examples of the corruption of juries, and of the integrity of judges. Would it not have been idle in any person to have exposed this by examining his cases? There are some occasions on which, in order to judge of a political institution, we must examine everything about it in detail. But there are others, and this is one, in which this labour may safely be superseded, by the obviousness of one result, which is as certain as the identity, at all times, of the human character. Is it reasonable to require examples of abuse, in order to be convinced that an absolute monarch must always be a bad king, even though he should happen to be an ex-

cellent man? We are far from saying, that it is *impossible* for a public prosecutor to act with impartiality in party questions. But, in reasoning on the probable result of an institution, we must think of its *general tendencies*. Now, without meaning to cast any imputation on any individual, who has ever held, holds, or ever will hold, this office, we may surely say, that the *chance* of a public accuser being quite candid, when his place or his party are at stake, may fairly be judged of by referring to that principle which declares, that the most incorruptible person who ever sat in the judicial chair must be presumed unfit to be safely intrusted with the official disposal of one sixpence, if he has an interest in it;—that the most honest man alive cannot be believed, even under the sanction of a special oath, if he can gain or lose one farthing by the result of a cause in which it is proposed to make him a witness; and that, in Scotland particularly, partiality is held to be so prevalent, that the law requires even a supreme judge to leave the Bench, if a cause be about to be proceeded with in which the interest of certain relations, far beyond his own family, is concerned. But what are all these when compared with the interest which is felt in the fate of a party?—in keeping or losing a high and lucrative office?—in being resistless, in a station where the mere exercise of power looks something like the possession of real greatness?

Nor will this consideration be removed by saying, that those who are raised to this office must necessarily be persons of high characters. Let this be assumed. Still it is very dangerous to let our lives and liberties depend on the character of any one man. But, besides this, there are two things which, with reference to real life, deprive this personal and complimentary defence of all force. In the *first* place, those who hold that this office has been abused, and that it must always be liable to abuse in political cases, are by no means bound to ascribe this to the fault of the person who holds it. It would not materially diminish the force of the objection, though it were to be assumed that no one could possibly be invested with it, without previously being, or instantly becoming, a perfectly pure man. The misfortune in such matters is, that people are never all of one mind; that each person thinks it his duty to do what is to support his own conscientious opinion; and that this bigotry of virtue is apt to be strongest in the most sincere men. The persons by whom the most violent and illegal things have been done in public life, have sometimes been men individually of unexceptionable natures. But they thought certain things right, which other people thought wrong; and what satisfaction was it to the latter, to be told, when they com-

plained of oppression, that the former were remarkably worthy characters? The vice is in the system, and not in the men. In the *second* place, in order to make the administration of law salutary, it ought to be above suspicion. Now, let public prosecutors, acting at their own discretion, be as pure as they may, they never will get universal credit for their purity. Their characters and motives may be perfect; but the mischief is, that those who differ from them, can seldom be made to believe, or to care, for this; and therefore, the reliance which is demanded for them upon this account, can never have any effect, even where it is perfectly well founded, except to throw discredit on the system which requires such faith to support it. ‘*Magnitudo periculi summo timore hominem afficit, quod uno judicio de fortunis omnibus decernit; idque dum cogitat, non minus sæpe ei venit in mentem potestatis, quam equitatis, tuæ;—propterea quod omnes, quorum in alterius manu vita posita est, sæpius illud cogitant, quod possit is, cujus in ditione ac potestate sunt, quam, quid debeat facere.*’ *

There have therefore been various remedies proposed for what at all times have been felt to be formidable objections to this office. There are some, as we have already hinted, who are for its instant abolition, or for alterations which amount to nearly the same thing. It is not unusual, for example, to hear it proposed, that the Lord Advocate should not be privileged to decline disclosing his informer; that he ought not to be saved from costs or damages,—that he ought to have no right to delegate his authority to others,—and that some liberal provision should be made for private prosecutions. Now, it is plain that these, and many similar remedies that might easily be named, are inconsistent with the existence of the office. If we are to have a public prosecutor at all, he must be vested with those privileges without which he could not act; and if we are not to have him, he had better be abolished directly, than allowed to remain in an ineffectual condition. But there are other alterations to which this objection does not apply, and which proceed upon the principle that the office is not to be abolished, either directly or indirectly, but that its respectability and usefulness is to be increased, by making it more popular and more agreeable to the principles of our constitution.

1. The very first change of this description which seems now to be called for, and which is recommended by its requiring no new law, but depending merely on the practice of the government is, that the Lord Advocate should be empowered or obliged to act as a Political character in an infinitely less degree

* Cicero pro P. Quintio.

than he now is. There was some apology for his being required to discharge the duties of an agent for administration when the kingdoms were first united; because there was then such ignorance of Scottish affairs in the highest quarters, and the intercourse with the metropolis was so imperfect, that it was necessary to have some resident organ of government; and, though the Public Prosecutor was the very last person who ought to have been selected for this business, it was not unnatural to employ him. But now that the country is trained to habits of lawful industry,—that the whole of our affairs are as well known at the seat of government as they are here,—that the people have risen to a juster conception of their constitutional rights,—that government is effectually represented by other officers in all departments,—and that a letter can easily reach London in forty-eight hours;—there seems to be no ground whatever for continuing the junction of two offices which are quite inconsistent. For nothing can be more glaring than the incompatibility between the duties of a public prosecutor, and those of a mere servant of administration. The interest which the community has in the impartiality of its Judges, is not much greater than that which it has in the impartiality of its national accuser. If this officer has not candour and firmness to view every case solely according to its legal merits; but, either from arbitrariness of principle,—from violence of temper,—from gratitude to his patrons,—devotion to his party,—a bias towards his friends,—he be likely to mitigate prosecution in favour of some who are probably guilty, but whose guilt it is inconvenient to expose, or to enforce it strictly against others who may be innocent, but over whose innocence it is convenient to cast a doubt,—he is the greatest curse that a country can know. It is but just, therefore, with reference even to himself, to keep him clear of that constant party contact, which is a more copious source of prejudice than almost all the other temptations to which our nature can be exposed.

This too is infinitely more necessary in Scotland than it is in England. In the latter country there are Grand Juries and popular elections, and many other institutions, which stand between the people and the official accuser. But, in Scotland, there is nothing interposed between these two, except perhaps public opinion, which is often uninformed, and must in each individual case be too late, and subsequent parliamentary responsibility. The people, therefore, are very little practised in those habits of orderly public freedom which, in England, go far to supersede all the other checks of the constitution. The number also of places of honour or emolument, for procuring which, the patronage of the Lord Advocate, if not decisive, is at least very desirable,

is much greater here in proportion to the population. In every country too in which there is no Parliament, the Bar necessarily becomes the next important political element, and its independence is the next best preservative of public spirit. Now, the Scotch Bar, though prodigiously overcrowded, with reference to real practice, is in the extraordinary situation of having one office for every third, or for every second member; which offices being of a legal nature, may be supposed to fall peculiarly within the fair line of the prosecutor's influence.* Now, is it right, or even decent, that he, on whose breath the life, liberty, and character, of every man and woman in the nation may depend, should be allowed, any where, but particularly in a country circumstanced as this is, to expose his mind to the poison arising from regular and avowed party agency?—especially since he can scarcely do so, without spreading that poison among classes in whose healthiness the country has an interest, and who are peculiarly ill fitted to resist it.

If it be said that he is not a party agent, but the dignified manager of the public business of Government, we shall not quarrel about the phrase. Government is the party in power; and, let it be Whig or Tory, he who manages the political business in one of the provinces of that government, is the organ or agent, or whatever it may be called, of that party. In what a painful situation, then, even for his own sake, is a Lord Advocate

* After the most accurate examination we can make, the following appears to be the state of the fact.

The names on the roll of the Faculty of Advocates amount in all (December 1823) to 374. The number of offices held by these persons we cannot ascertain, because many of them are unconnected with the law, and are held out of Scotland; but the civil offices, held by members of this Society within Scotland, are certainly above 100. This includes Judges, Sheriffs, Professors, Crown Counsel, Clerks to burghs, to Sheriffs, and to Courts, Sheriff-substitutes, Collectors of Decisions, situations in the Customs, Excise, General Register House, Exchequer, &c. &c. But this division of 100 among 374 gives no correct idea of the extent of the influence to which the real professional part of the Bar is exposed; because many of these situations are not necessarily enjoyed by barristers, and because many of these office-holders have no connection whatever with the Bar. The true practical view is, to divide the really professional offices among the really professional men capable of holding them. In this way the thing will stand somewhat thus:

There are on the Faculty roll 374 names. From these must be deducted about 150 persons, who, from age, office, peerage, permanent bad health, permanent absence, change of avocation, &c. have

placed, who, while this unseemly combination of power lasts, can scarcely stand up and address a single jury in a political case, without being conscious that he is necessarily conveying to persons subject to the same prejudices, the impression that he is not merely submitting to them a question of evidence, but straining to obtain a victory for his party?

as completely renounced the Bar as if they had never belonged to it. This leaves 224. From these again may, in one view, be deducted 53, who, having entered within the three last years, can scarcely expect to be elected to any public station, and are legally ineligible as Judges and Sheriffs. This leaves 171. Now, the offices for these 224, or for these 171, are as follows:—

	Judges in the Court of Session and Justiciary	-	-	-	-	15
	— in Exchequer	-	-	-	-	4
	— in Jury Court, not included in above	-	-	-	-	1
	— in Admiralty Court	-	-	-	-	1
	— in Commissary Court	-	-	-	-	4
	Sheriffs	-	-	-	-	30
Named by the Crown.	{	Clerks of Session, at present 2, but commonly 3	-	-	-	2
		Clerks of Jury Court	-	-	-	2
		Deputy Clerk Register	-	-	-	1
		Solicitor of Tythes	-	-	-	1
		Lord Advocate	-	-	-	1
		Solicitor General	-	-	-	1
		Professor of Public Law in Univer- sity of Edinburgh	-	-	-	1
		Depute Advocates	-	-	-	3
		Crown Counsel in Exchequer	-	-	-	2
		Law Professors in University of Edin- burgh	-	-	-	3
by the Lord Ad- vocate.	{	Collectors of Decisions	-	-	-	4
		Counsel for the Boards of Excise and Customs	-	-	-	1
by the Faculty of Advocates.	{	Procurator for the Church	-	-	-	1
by the Boards.	{					
by the General Assembly of the Church.	{					

The last nine persons are not named by the Crown, or by the Lord Advocate, directly; but how far they are so indirectly, need not be stated.

Now, if we divide these places among 224, the total number at the Bar, it amounts to something more than one office for each third person. If we deduct those young members who are really not eligible,

To what precise extent his exclusion from politics ought to be carried, it may not be easy to define; but the clear principle is, that he ought to be viewed merely as the professional adviser of the Crown in professional matters. He can never be expected to be indifferent about the success of his party; and we are by no means romantic about the extinction of party feelings,—which are salutary and necessary things. But, if there be one person in the community who ought to be rescued, more than another, from the prejudices which they are apt to create, it is he on whose legal candour and moral liberality the comfort of our lives depends, more perhaps than it does even on that of the judges. Though we concede, therefore, that he may be pledged to his party, both by honour and by interest, there is no reason why he should openly or secretly manage its affairs, or be exhibited as one of the known dispensers of political patronage. His abstaining from this would at once be the most dignified thing for himself, and, therefore, the most expedient for his patrons.

We are aware that it has been stated, that if the Lord Advocate does not take the general charge of Scotch affairs, there must be a regular Secretary for Scotland, and that this would be infinitely worse than what we have. We believe that it would. But there are two answers to this suggestion.

In the *first* place, there is no necessity for such a secretary. There is no more need of a separate secretary for Scotland, than for Yorkshire, Northumberland or Wales. Everything that Scotland requires to be done, can easily be accomplished by the gene-

and thus make the division among only 171, it seems to want only about a tenth of being *one office for each second person*!

The emoluments of these offices, we should think, may be stated thus :—

4	of them are worth about L.4000 a year,	-	L.16,000
3	- - - - - 3000	-	9000
3	- - - - - 2500	-	7500
14	- - - - - 2000	-	28,000
4	- - - - - 1000	-	4000
8	- - - - - 500	-	4000
34	- - - - - 300	-	10,200
8	- - - - - probably below 250	-	2000

78 L.80,700

We cannot positively vouch for the absolute accuracy of all these details; but, after a careful inquiry, we believe them to be substantially correct.

ral Secretary for the whole kingdom, and by the other public establishments, with which the country is now quite familiar. There was a Secretary of State for Scotland for a few years after the Union; and perhaps this was necessary for a short while at that crisis. But in the year 1725, a communication was made by the Duke of Newcastle to Duncan Forbes, the Lord Advocate, stating, that 'his Majesty, not intending for the future to have any particular Secretary of State for Scotland, has been pleased to remove the Duke of Roxburgh from that employment, and ordered his other Secretaries of State to take care of the department that his Grace had.'* If the other Secretaries could take charge of Scotland at that period, when the harmony between the two countries was scarcely begun, why should they not do it now, when it is completely systematized?

In the *second* place, if we must have a separate Secretary, we are very clear, that, let it be given to whom it may, this office ought never to be united with that of Public Prosecutor. The two things are irreconcilable. The Lord Advocate can never be prepared, by his previous habits and education, to make a good Secretary; and the feelings of a Secretary of State are destructive of every quality that ought to predominate in the mind of a Lord Advocate. No person is either qualified, or ought to be allowed to act, as a Secretary for any part of the empire, who does not generally reside at the seat of government; who is not thereby led to act with high public men of all parties; and is not trained to feel and to respect the discipline of Parliament. It may do very well to raise an ordinary barrister to the rank of Lord Advocate, and to the discharge of what *ought* to be the duties of that situation; because this is all within the line of his professional experience and knowledge. But what can be more absurd than to tell such a man that he is now, all at once, a statesman; and that, though he may never have crossed the Tweed, or conferred with a single public character, or smelt St Stephen's,—he is to manage the whole public affairs of the country!

2. Having thus purified the official Prosecutor,—the next thing is to protect the accused from being confined, or degraded, by the charge, for an unnecessary length of time before he be tried. For this purpose, it is necessary that the Act of 1701 should undergo revision. This will startle official people, with whom (much more than with prisoners) it is a favourite opinion that this is a perfect statute. The phrase sometimes is, that it is the *Magna Charta* of Scotland; and at other times, that it is

* Culloden Papers, p. 94.

the *Palladium* of Scottish liberty. In one sense it is; for it is all that we have; and it was no doubt a great relief to the country, in the year 1701, because, in those days, the correct statement of the former law was, that the Lord Advocate could do any thing he chose. But, as a protection to the subject *now*, it appears to us, with all due deference to its encomiastic admirers, to be a most defective statute.

Its very obscurity, considering what its object is, is almost a sufficient objection to it. There is a tradition, that its author was, in his heart, a great enemy to the liberty of the subject, and that he used to boast, after the act was passed, that he had defeated its end, by making it unintelligible. Any one can easily judge how far he succeeded by reading the act, which is extremely short. Certain at least it is, that there is no one statute which it is more difficult, even for professional men, to expound, or which has required a greater number of decisions to attempt to make clear. It is not above two years since, according to the Parliamentary Reports, the Lord Advocate stated his conviction, in the House of Commons, that that statute prevented the possibility of imprisonment being extended beyond one hundred days; yet, in practice, it certainly extends the period to one hundred and forty days. What can be said worse of a statute meant for the protection of the subject, and which, therefore, the subject ought to understand, than that the Public Prosecutor himself was misled by it as to the extent of his own powers? So far as it is clear, or is understood to be so, it is liable to very formidable objections.

For one thing, the period of imprisonment of which it admits, *in all cases, as a matter of right to the Prosecutor*, is too long. We are aware, that more than five months sometimes intervene between one Circuit and another; and that there are some cases in which all this time may be required to prepare for trial. But this is no reason why this should be assumed as a period which the Prosecutor is entitled to take advantage of, *as matter of right in every case*. Where a fair opportunity occurs for trying, as, for example, a Circuit, it is surely subjecting him to no unreasonable restriction, to require that he should obtain an order of the Court for further time, or, at least, to allow the question to be argued at the instance of the prisoner. Of course, the benefit of the full period would be very easily obtained, and the granting of it might, perhaps, soon become a matter of course. But still, the very necessity of applying to the Court would often prevent injurious delay, and operate as a great protection to the prisoner, without being any obstruction to justice.

But this defect is immaterial, when compared to the next, which

is, that the act affords no protection whatever to those who do not make a formal written application to the Court for the benefit of it. This, if it be not done by a professional man from charity, costs something;—the proceedings are liable to very strict formal objections; and there is a very common and natural, though certainly a very absurd, idea, with ignorant people, that the very measure of claiming the protection of this statute is a sort of defiance of the Lord Advocate, and does not tend to conciliate. Accordingly, the fact is, that though prisoners may be pining in jail, and abusing the cruelty of the law, there is a general unwillingness to resort to the act. This may sometimes proceed from the prisoners having no desire to accelerate their trial. But, as this feeling must chiefly exist in the minds of guilty men, it is the very feeling which the public has an interest in preventing from being made an engine for procrastinating justice. Now, is it not inexpedient for the community,—cruel to the guilty,—still more cruel to those who, though conscious of innocence, are trembling for the plausible evidence to which they may be exposed,—and injurious to the habits of the prosecutor and his official associates, that if a prisoner be either so stupid, or so timid, as not to institute a certain judicial proceeding, he may lie in jail almost for any given length of time? The Act 1701 affords no protection to such a person. We are quite clear then, that it would be a great, and, so far as we see, an unobjectionable improvement, to declare, that every person, from the moment of his commitment for trial, was necessarily within the provisions of the act. This would protect prisoners,—it would expedite justice,—and it would greatly relieve those who are at the expense of maintaining the inmates of jails.

But, moreover, the statute makes no provision for accelerating the trials of those who are not imprisoned at all. Its declared purpose indeed, is to remedy excessive *confinement*. So that, as the law now stands, the only way in which a person who is suffering under what he believes to be an unjust accusation, can force on a judicial investigation, or get free for ever of the charge, is to go to jail, and to lie there for 140 days. But, even of this remedy, it is always in the power of the prosecutor to deprive him, by not applying for his commitment, or by saying that he consents to his liberation. If this be done, the accused must live under the weight of the charge the best way he can, till the prosecutor shall please to indict, and the Court shall then please to force the prosecutor to proceed with his indictment; or till Time shall cleanse him by the moral quarantine of twenty years.

3. After he has got into Court, the prisoner, and through him the community, is exposed to indefinite risk by the three

circumstances that have been mentioned, of the Court naming the Jury,—having the power to declare new crimes,—and all its judgments being irreversible. On the first of these, which forms the great stain of our criminal jurisprudence, we have, on other occasions, explained ourselves so fully, that we shall say nothing more about it at present. The other two deserve a few words.

The '*native vigour*' is monstrous. The reasoning generally employed to defend it, that is, to defend the strange power by which a court of law, *without any previous promulgation* of the new code, but *on the trial of an original case*, determines things to be criminal without statute or precedent, and solely upon the opinion of the Judges that the act is wicked and dangerous,—resolves merely into the *convenience* of its doing so. It is said, to save slow and expensive applications to Parliament; that the judges are best acquainted with the principles of the established criminal system, by which they can easily make the new crime take its proper place in the existing code; that while Parliament, in making a general statute, would be obliged to set the punishment so high as to make it adequate in an aggravated case, the Court can always proportion it to circumstances; and that here, too, the mildness of the punishments that have been applied, show how safe it is to trust all this to persons of unimpeachable character and of high station.

Now what is all this, except a poor argument to show, that the legislature may expediently be dispensed with? And that, though no court can strike an offence out of the calendar, there is no risk, even in dangerous times, in letting judges, named and liable to be promoted by the Crown, *add* as many to it as they please? What would be said if this were attempted in the form of a resolution of court, without an indictment at all? But is it at all less legislative or less dangerous to get the Lord Advocate to indict, and then to entrap the victim or the community by finding, on that indictment, that a crime was committed by an act which was never charged to be criminal before? If there be one subject more than another, as to which the legislature should *not* be dispensed with, it is in adding to the list of what shall be held to be crimes. Nor can any thing be more adverse to the formation of right judicial habits, than the idea that it is possible for judges to exercise the slightest portion of legislative power. As to the reference that is made to the mildness of punishments depending on the discretion of courts, it rests upon a total mistake. All experience has shown that courts are much more apt to exceed in severity, or in any other error, than senates; that is, that a small number of men are more easily misled than a greater number,

equally intelligent and independent. Courts too, both in creating and in punishing new offences, are naturally under the influence of a prejudice which it is extremely difficult to guard against, because it is founded in seeming benevolence. They only pronounce acts to be criminal for the first time from a strong impression of what they conceive to be the moral iniquity of the deeds, and they are, unconsciously perhaps, but irresistibly, beset with the virtuous ambition of distinguishing themselves by the vigorous putting down of guilt yet in its infancy. They are apt to act not under the love, but under the passion, of justice. Parliament is infinitely less swayed by a feeling which can only attach itself to a select number of individuals, and is lost amidst a great number of men, whose judgments rest on cooler and more general views. Accordingly, *the fact is*, that while an existing English statute only allows combination amongst workmen to be punished by three months imprisonment, the Scottish Court, *after introducing this as a new crime*, has actually punished it by imprisonment for eighteen months, and has always held out that it was punishable by transportation; and while another English statute, passed for a short period, and in a season of alarm, only allows the author of a seditious libel to be banished for seven years, for the second offence, the Scottish Court, *exercising a discretionary power*, has generally punished it, in modern times, by transportation for fourteen years for the first offence.

The irreversibility or, in other words, the impossibility of reconsidering Scotch criminal sentences, or of consulting other judges in their formation, is equally indefensible. We do not allow the pecuniary interest of any man to be affected beyond the extent of a few pence, without affording an opportunity for taking the opinion of courts above those by which that interest may be originally disposed of; and yet we allow those great questions of criminal justice, in which the life and liberty of every man in the kingdom is involved, to be finally disposed of by a single judgment, pronounced by a tribunal consisting of six individuals. This tribunal, no doubt, has a certain power of adjournment and of reconsideration, before its judgment be given, which is daily exercised. But this power is extremely apt to be interfered with by the currency of the 140 days; and it can never be exercised in any one case, when a point arises which it is necessary to decide in the course of a trial. *There is no power of reserving such points.* But, even though there was, and although the forms of the court admitted of argument and of reconsideration to any extent, it would still form an alarming defect, that the review was confined to that court alone. There is a great advantage in introducing

even a single fresh mind into judicial discussion. New lights are thrown out,—erroneous principles, which, from mere habit, had escaped the attention of one set of men, accustomed to certain fixed ways of thinking, are detected,—the grounds of judgments, by being questioned, are studied and explained,—courts are saved from peculiar and narrow maxims which are apt to steal upon all men when they are unconscious of control; they are taught to think in sympathy with the rest of the legal world; and, above all, a degree of authority is given to decisions in doubtful questions, after they have been fully sifted by new and independent men, which can never be imparted by their only expressing the opinion of a small number of unchecked individuals, however wise or honest they may be. The vulgar answer that is usually made to this, consists in saying, ‘What! would you have the execution of criminal sentences stopt, as long as the criminal chose to object?’ No, we would not. But when a legal question arises, which is of importance and difficulty, and on which the court itself perhaps is divided, we certainly would give *the court, or the prisoner with the approbation of the court*, an opportunity of having the point more fully and deliberately discussed, though not to the exclusion of the original judges, before other persons, on whose integrity and learning the state has equal confidence. The alarm, lest this would prevent culprits from being hanged or transported fast enough, might be effectually allayed, we should think, by mentioning the simple fact, that this is the system which prevails in England, and yet that men are hanged and transported there a great deal faster than in Scotland. Under the present plan, the strange anomaly must be continued, of letting our whole criminal law, including the law of criminal evidence, depend upon six individuals, whose personal and official excellence may be conceded to the fullest extent, but who, nevertheless, are human beings. If it be right that such persons should be exclusively trusted with the settlement and application of those principles on which our lives and liberties depend, then our whole system for the trial of civil rights must be admitted to be cumbersome and useless.

One of the worst effects of this exercise of legislative authority, and this exemption from the salutary restraint of other courts, is to be found in their tendency to obstruct the acquisition of right judicial habits. Unfortunately, there is a recent period in our judicial history, which affords a too powerful illustration of this remark. We allude to the Trials for Sedition which took place in Scotland between the years 1792 and 1797. These cases have all been published by Mr Howell, in his va-

luable edition of the State Trials; but it would require a short exposition to make the exact import of certain parts of them fully intelligible to strangers. Nothing would be more useful than such an exposition. But the time is not come in which it can be easily given;—for though the judges (of whom alone we now speak) who acted in those scenes, have all passed away, it probably could not even yet be done, as it ought to be, without giving pain to surviving friends. This, to be sure, is a weak reason for saving the memories of public men from public discussion;—but we choose to err on the side of tenderness. We shall, therefore, only recommend those who are curious about such subjects, to recollect what a Criminal Court, in agitated times, ought to be, and then to read these Trials. Let him observe the temper,—the language,—and the manners, of the Bench; and, assuming all that was done to have been legally correct, let him try how many of the things that will probably surprise him, may be accounted for, by their occurring in the conduct of persons who knew that they were subject to no judicial control, and that the power of resisting interference, by declaring any thing to be criminal that they chose, belonged to them alone. Some of these trials were discussed in Parliament at the time; and stronger language was used by the greatest statesmen of the age, with respect to the general tone and spirit of the Scottish Criminal Bench, than we can discover to have been used there in describing the conduct of supreme judges in any part of the empire, either since the Revolution or before it. We are aware that there are people by whom this language has been condemned. But this class, consisting chiefly of those who partook of the prejudices of the day, is gradually diminishing; and there are few candid men who do not now acknowledge, or at least who do not feel, that it would be honourable for the Law, if these cases were obliterated from its history: For our own part, we think it right, since they occurred, that they should be known; and though it would have been more agreeable to have passed over this branch of our subject in silence, we feel that we cannot discharge our duty, without thus entering our protest against proceedings which, though they be unfortunately still received as legal precedents, we have never been able to read without shuddering.

There is yet another point, more important than all, which, we believe, has, for some years, presented itself to many of the highest men of all parties, as the most constitutional, and the only effectual, remedy for the objections which have undeniably been gaining ground in the country, to this singular office. We

allude to *Grand Juries*. On the propriety of introducing these into Scotland, we shall perhaps incur the contempt of less timid reformers, by confessing that we have been a very long time in making up our minds, and that, even yet, we are only prepared to suggest a very few very imperfect views.

Part of this uncertainty has arisen, no doubt, from our not having the advantage of knowing, with that accuracy which those only who live under its operation can acquire, how this institution works practically in England: But it is impossible to forget that the circumstances of the two countries are materially different. It sometimes occurs to us, that grand juries may be very natural, and indeed absolutely necessary, in England, where criminal justice is chiefly administered under private prosecutions, in order to save people from the risks of irresponsible accusation; but that this consideration does not apply to Scotland, where the existence of a public accuser may at least afford some security against this evil. And yet, when we think how extensive and undefined the powers of this officer are, and how much his own personal interest and that of his party is involved in every political case, it strikes us, with perhaps better reason, that his existence may not only fail to afford any protection at all, but may prove the worst of all engines of oppression. Then, again, when we recollect the popularity of the English Government, and how long and generally all classes in that community have been accustomed to the free exercise and discussion of political rights, we see how grand juries, especially in times dangerous to liberty, may really prove an effectual shield to the accused and to the law; and how, out of the forms of the constitution, a privilege is called into operation which is well calculated to preserve its spirit. But we cannot fail to perceive that this mighty advantage implies the previous possession and the general prevalence of independent public principle; and we no sooner think of this, than we are obliged to doubt if grand juries would do much good to Scotland. They seem to be useful, when combined with other popular institutions; but what protection would they afford in opposition to the Crown, in a country not only without popular elections, but of which the great body of the inhabitants do not feel that they personally have the slightest connection with the representative system? Might they not merely enable the accuser to diminish his responsibility, without at all abridging his power?

These have been the grounds of our doubts. But, at last, after taking as deliberate and large a view of the subject as we can, we have settled into the belief, that, under whatever qua-

fications, as to their extent or form, they may be introduced, the time is come in which grand juries ought to be given to the people of Scotland. There are some who will exclaim at the very mention of such a thing, as implying a revolution in all our technical forms, and an impeachment of the public officers by whom our criminal justice has hitherto been administered. These considerations are paltry. They have been regularly stated in opposition to every one of the improvements to which the happiness of the world is owing, and they ought to be as regularly despised. The change which we recommend would necessarily create some alteration in a few parts of our criminal machinery; but the new forms would appear as natural as the old ones in a year. As to the impeachment of public officers, we disclaim it; and it is contemptible to set up the feelings of individuals, especially when these feelings are unreasonable, as obstacles to a public improvement, proceeding on a general principle. We must, however, add, that the straining by public men, but more especially by Judges and Accusers, to retain possession of discretionary power, is always the best evidence of the necessity of depriving them of it.

It is unnecessary, after what has been said, to explain the reasons in detail, why we think that grand juries, under certain regulations, would be beneficial. These reasons must at once present themselves to any one who knows what grand juries are, and what our present system is. They would operate in Scotland as a protection to individuals, unjustly obnoxious, against unfair or rash prosecution. They would tend to prevent (what has been an infinitely greater evil, and would, if removed, go far of itself to correct the other) the law from being unequally administered, by its terrors being liberally dealt out to one set of people, and very sparingly, if at all, applied to another. They would enable the Public Prosecutor to shake himself loose of violent and injudicious dependents, who have as often misled him as the higher considerations of party have done, and to rise superior to the degrading trammels of local faction. They would silence or at least lower the tone of murmurs against this branch of the administration of criminal law, by making the people feel, that, if guilt went untried, or innocence was not safe from accusation, the error was committed by themselves. And, above all, they would accustom that great and most neglected body, the middle rank of the nation, to the direct and orderly exercise of at least one valuable political privilege, and would thus bind all classes together by a firm reliance on that equal justice which they themselves would assist to administer,

and which would no longer present itself to their imaginations as depending on the will of a single man.

It cannot reasonably be expected that we should be able to illustrate this subject by examples; yet two instances occur to us as not unworthy of notice. In the year 1802, several people were shot by the military on the streets of Aberdeen. The Lord Advocate refused to prosecute. One poor man, whose son had been killed, raised a prosecution at his own instance, the costs of which were afterwards obliged to be defrayed by subscription. As the prisoners were acquitted, we must presume that they were innocent; and as the public prosecutor declined to institute the proceedings, we presume that he was right in this resolution. But who can have forgotten the great blow which this case gave to the confidence of the people in that part of the country, in the administration of our Criminal law? We assume that they were wrong. But still the fact is, that for many years the greatest discontent, founded on the supposed difficulty of getting the Crown to prosecute the military, unquestionably prevailed. Such feelings, however groundless, do not contribute to the respectability of the law; and, therefore, no preparation for their repetition ought to be made in its system. The whole of them might have been prevented, in this case, and in many others that might easily be referred to, by depriving the public of the pretence for ascribing what they may happen to complain of, to the caprice of a single individual.

This was a case where, contrary to the opinion of the public, a person was *not* prosecuted. The same misfortune must arise where, in the same circumstances, a prosecution is ordered to take place. There is a letter from Duncan Forbes to the Secretary of State, of the 3d of August 1725, which affords a striking illustration of this. There had been a tumult at Glasgow upon the first imposition of the Malt-tax, for accession to which the provost and other five of the magistrates were committed to jail. The proceedings of the culprits were said to have been so criminal, that Government directed some of them to be tried for high treason; and Forbes was of opinion, that this was really the legal character of their offence. The culprits, therefore, had a claim to the privileges attending a trial for that crime. But Forbes, who knew the Scotch law better than ministry did, explained, with his usual candour, that there was a very easy way of avoiding the difficulties which these privileges implied. ‘*Though the crime,*’ says he, *of the offenders* ‘*may, in a very proper construction, amount to high treason, and*

' though the present conjuncture undoubtedly demands the most exemplary punishment ; yet there are so many difficulties that lie in the way of making that punishment effectual, that I most humbly submit it to their Excellences, whether it is not more expedient to carry on a prosecution, which will be attended with abundance of terror, and probably may end in a severe punishment, than to attempt a trial which, as matters presently stand, would certainly be fruitless.' The reasons why it would be fruitless are, that *' in the disposition in which the country now is, it would be utterly impossible to pick up a grand jury ; for example, that would find bills against these rioters,' &c.* *' Another difficulty is, that supposing bills were found, yet the liberty of peremptory challenges is such, that we could not possibly promise, out of the county where Glasgow lies, to find a jury that would bring the offenders in guilty. Whereas a prosecution for felony, or any less crime, is not, by the law of Scotland, liable to either of these inconveniences. For there is no occasion for finding of bills or presentments. His Majesty's Advocate, by his single act, virtute officii, gives the indictment ; and, in the next place, by the law of Scotland, no such thing is known as a peremptor challenge ; so that if we can find fifteen honest men for the jury, which is the number of Jurors in criminal trials in Scotland, we may have just hopes of success.'* He therefore proposes a trial for mobbing.

Duncan Forbes was the greatest and the purest man, in the management of her civil affairs, that Scotland ever produced. He lived in distracted times, and when the influence of public opinion was low, with almost universal power ; yet the most confidential correspondence of his whole life has lately been given to the public ; and it is impossible to detect a single line of it that is not beaming with patriotism, humanity, and honour. He was right even upon this occasion ; for, if the law allowed him to deprive these culprits of a Grand Jury, it was his duty, in existing circumstances, to do so. But who does not see the importance which he attaches, as a protection to the people, to these Grand Jurors ? The public and the Lord Advocate were at variance ; and he fairly reveals, that, in such cases, the latter is not omnipotent, so long as a Grand Jury must be consulted. The omnipotence of Forbes, on this occasion, was not dangerous. But what may be the case where a prosecutor, of a different character, is at variance with the public because he is wrong, and is disposed to turn his power against the liberties of his country,—or cannot resist the temptation of distressing an adversary,—or forego the opportunity of giving a momentary triumph to his provincial adherents ?

It is no answer to all this to refer, as is commonly done, to the public spirit of the age, or to the responsibility of all the servants of the Crown. These checks are not to be depended upon with perfect safety, even in good times, and in bad times they cannot be depended upon at all. There are some who will never allow themselves to imagine that bad times can return. But this is a delusion which, though it be always encouraged by the immediate possessors of power, ought to be systematically resisted by every one who does not wish the blood and the groans of past ages to prove useless. Experience is lost, if it be not turned to the purposes of futurity. It is a lamentable proof of the blindness and insensibility of men, that merely because we happen to be living agreeably in our own day, we should forget that it is not much beyond a single century since the whole of Scotland was suffering under the most frightful persecutions, judicially performed. If such a King as the last of the Stuarts were ever again to be upon the throne, we have no idea that he would be long without a Minister like Lauderdale, or that such a minister would be much obstructed in his operations for want of an Advocate like Mackenzie. Before such persons could subvert the government, they would, no doubt, require to alter the manners of the age, and to change many other things which have since been made to stand in the way of arbitrary power. But how many things would they require to change, *in the principles of that particular part of our system*, which recognises a discretionary right of prosecution in a dependent of the Crown, uncontrolled by any legal obstacle interposed between him and those whom he chooses to spare or to accuse,—his prosecutions being accompanied by great power of imprisonment before trial,—and conducted at last before a Court which names the Jury,—has a right to declare acts to be criminal, for the first time, without a statute,—and whose decisions can neither be assisted nor questioned by any other Judges? And let no one lean too securely on the boasted humanity of modern times. We shudder, for example, at the idea of torture, and wonder what sort of people they must have been with whom it anciently prevailed. Alas! how few years of faction would it take to restore even this enormity in Great Britain, if it were not checked by positive law? It subsists, we believe, at this moment, though this be the nineteenth century, in almost every part of the Continent of Europe; it is not very long since something like it was said to have been restored for a season in Ireland; and it was only legally abolished in Scotland in the reign of Queen Anne.

Since, therefore, 'it is true, that in an arbitrary government, where the whole frame and order of things tends to make the favour of the sovereign the chief object of regard, and the sole means of preferment, such an institution might be made an engine of injustice,' we are wasting time if we do not prepare for the evil day. We are bound to supply those constitutional barriers, which, though they may not absolutely prevent the recurrence of arbitrary power, always render its approaches more difficult and palpable. It is common to hear people talk of their determination to transmit the constitution unimpaired to their descendants. A meritorious boast. But we are afraid that, in Scotland, a good patriot must go somewhat further. If he merely transmits the constitution as he got it, he will give his posterity an inheritance for which they may not long have to thank him; for if there be no foreign or domestic calamity which shall extinguish all our liberties together, it may be considered as certain that the political system of Scotland must undergo complete revision. It is the duty, therefore, as it ought to be the glory, of each generation that is blessed with peace in its day for the task, to correct gradually what was neglected at the last great settlement; to look forward to the probable demands of an age not far off; and that will not demand in vain; to accelerate the era which, unless the progress of intelligence be stopped, is coming; and to send down the system not merely unimpaired, but greatly improved.

These reflections have been suggested by the perusal of the Essays which form the title of this article, and one of which is on 'The Powers and Importance of the Lord Advocate of Scotland.' Having devoted so much to one of them, we can say no more on the rest. They are full of remarks and expositions on various parts and principles of our law and forms. There are some of these with which we cannot agree; but the work, which is meritoriously short, is all in a right spirit; and its general intelligence and independence is much to its author's honour. It is rare to see a professional person so free from the shackles of his trade. It is this that enables him to unfold the roots of those evils, the effects of which society long feels, without knowing where they are growing.

- ART. VI. 1. *Silva de Viejos Romances.* Publicada por JACOB GRIMM. Vienna, 1815.
2. *Sammlung der besten Alten Spanischen, Historischen, Ritter und Maurischen Romanzen.* Von. Ch. B. DEPPING. Altenburg und Leipzig, 1817.
3. *Floresta de Rimas Antiguas Castellanas.* Por D. J. NICHOLAS BÖHL de FABER. Hamburgo, 1821.

SPANISH poetry seems naturally to divide itself into two great epochs,—the one extending from the infancy of language and versification down to the reign of Charles V., the other commencing with the revolution then introduced by the imitation of the Italian models, and continuing to the present day. These periods are separated by broad and striking distinctions. The authors that belong to them stand opposed to each other in the whole spirit of their compositions—in the sources of their inspiration, in the end which they proposed to themselves, and the means by which it was to be obtained. In the former, we recognise that state of society when Poetry, instead of being the anxious task of a few, is the business or amusement of the nation at large; when it is characterized, not by the pre-eminence of some one individual, but by a general diffusion of imagination, overflowing in romance and song; when it knows and needs no foreign models, but animates its minutest productions with a spirit of intense nationality. In the latter, we perceive how naturally men are disposed, at a certain period of civilization, to abandon the poetry of impulse for that of art—to prefer rules to inspiration—to adopt the literature of strangers—to translate rather than to create—and to imitate rather than to furnish models for imitation.

It is to the first, and certainly the more interesting period, that the works which we have prefixed to this article relate. The collection of M. Grimm is occupied principally with the ballads connected with the fabulous history of Charlemagne and his Twelve Peers. M. Depping's is a miscellaneous collection of Narrative Romances; and the Floresta of M. Böhl de Faber contains specimens both of the ballads and the short lyrical pieces which, under the title of Canciones, Villancicos, Chanzonetas, &c. fill so large a portion of the Cancioneros and Romanceros of Spain. In attempting to convey to our readers some idea of this great mass of popular poetry, it will be our object to sketch rather than to detail; to treat the subject only in its general features, without descending minutely into classification;

and to avoid, as much as possible, the necessity of particular criticism and long quotations. Spanish literature is, of all others, that which can be least appreciated by extracts and translations. Its excellence consists, not in insulated beauties, but in that noble national spirit, which, like a great connecting principle, pervades and harmonizes the whole.

There is something, at first sight, extremely melancholy in the decline of a great literature. The mind clings instinctively to what it has, and refuses to be comforted for its loss even in the prospect of a brighter futurity. But the history of literature tends at last to soften this feeling of regret. It teaches us to consider these national catastrophes only as the development of a great principle of succession, by which the treasures of mind are circulated and equalized—as shocks by which the stream of improvement is forcibly directed into new channels, to fertilize new soils, and awaken new capabilities. Zoroaster dies, but the lore of the Magi and the Chaldees is preserved by the Egyptians. Egypt sinks into decay, but the mantle of Hermes is bequeathed to Plato; and Rome rises into literary greatness when the world is beginning to retort, upon the fallen Greeks, the epithet of Barbarians. Even the darkness which succeeded the dissolution of the Roman empire was but temporary. The sun only set in Europe to rise in Asia—pale, indeed, and obscured for a time, under the tempestuous reigns of the immediate successors of Mahomet, but regaining its brightness under Al Raschid and Al Maimoun. Knowledge had only completed its circle; and the Western world was a second time to receive from the East the seeds of improvement and the elements of greatness.

The rapid growth of Arabian literature is one of the most striking phenomena of history. Arabia seemed rather to recollect than to acquire—rather to revive a deceased literature, than to create a new. She entered on the vast field of knowledge as on a paternal inheritance, not with the hesitation of a discoverer, but with the confidence of one to whom every ‘dingle and alley green of that wild wood’ had been once familiar, and whose recollections were revived by the sight of her accustomed walks and familiar trees. A century had hardly elapsed from the barbarous era of the Hegira, when the court of Haroun Al Raschid was the centre of science and arts. A hundred and twenty years after the pretended burning of the Alexandrian library, public libraries were opened even in the obscurest cities of the Arabian empire. Bagdad, Balsora, Balkh, Cufa, Ispahan and Samarcand, vied with each other in the number of their colleges and learned men. Kings sat at the feet of sages to learn wisdom; and the whole empire seem-

ed but one vast academy, where all were either teachers or disciples, communicating or receiving knowledge. Every branch of science, exact or speculative, the Arabs had studied with success; and as the growth of their literature had been as rapid as their conquests, it seemed as if its extent would be vast and varied as the territories they had acquired.

It is in the poetry of the Arabians that the effects of this sudden rise of their literature are most visible. In the severer sciences, it matters little, perhaps, by what stages a nation arrives at perfection. Knowledge is still the same, whether it be acquired by laborious study, or with the rapidity of apparent intuition; but the growth of poetry, it would seem, must be gradual, if the frame is to be strong and healthy. There is an infancy in nations, as well as individuals, during which the reflecting faculties repose, while the materials of reflection are accumulated, and in both, premature development generally announces premature decay. During this period men act, and record actions, but they do not speculate, or commemorate feelings; and hence narrative poetry naturally precedes that of contemplation. But the sudden diffusion of science seems to have at once impelled the Arabians into the region of thought; for their poetry wears, from the first, that cast of meditation which, in other nations, has been prepared by centuries of activity, and preceded by a long series of narrative compositions. They have no national recollections embodied in ballads and chronicles—no *Heldenbuch* or *Nibelungen*.^{*} The luxury of study, and the despotic nature of their government seem to have nipped in the bud the tales of bravery and warlike adventure which, in less cultivated countries, form the amusement of the populace; and the want of these has communicated to their poetry a monotony of thought and expression. Like the character of the people, it is a compound of subtilty and passion: sometimes delighting, but oftener chilling the imagination by a spirit of refinement and analysis—exalting the feelings by the boldness of its imagery, only to precipitate them again by its extravagance;—at times bursting out into a majestic sweep of passion, or filling the mind with delightful dreams of pastoral stillness and simplicity; and then again relapsing into complaints of imaginary evils and fabricated distresses, which neither come from the heart nor are addressed to it. The poetry of the Northern nations is content to touch. That of the Arabians must dazzle too. The one operates by the unity, the other by the variety of its impres-

* The *Shah nameh* is a single exception.

sions. The one is like its own Gothic cathedrals—stately, solemn, shadowy—softening down every feeling into one deep sense of religious veneration;—the other is like the fantastic edifices of the East, all sunshine and splendour—broken into parts, and distracting the eye with the glitter of spires and minarets and porticoes.

Such was the state of Arabia, when, in 712, the defeat of Roderick at Xeres de la Frontera introduced the Arabian conquerors into Spain, and brought into contact the polish of the East with the barbarism of Europe. The fairest provinces of the Peninsula were now added to their already enormous empire; and, under their mild and yet powerful government, Cordova, Granada, Seville and Valencia, soon disputed the palm of intellectual superiority with Bagdad and Balsora. The fanaticism which had attended the rise of their empire, no longer kept alive by opposition, had declined; and the Christian subjects of the Abbasides and Omniades at first experienced protection, not persecution, from their conquerors. Under the name of Moçarabes, they became mingled with the Moors in every thing but religion. They possessed nearly the same privileges—they distinguished themselves in the same sciences—and reaped the same rewards. They were united by a community of loves, friendships, and amusements; and that bigotry which, at an after period, disgraced the annals of both countries, was then unheard of. It was only as their empire narrowed, that their religious animosities began. It was only when the tide began to turn in favour of Christian Spain, and the once great territory of the Caliphs had shrunk into the small province of Granada, that those feelings of bitter and unrelenting hostility on both sides were called forth, which, under the weak policy of Philip III., and the persecuting spirit of the Inquisition, at last deprived Spain of 300,000 of her subjects.

The contrast presented by the state of Christian Spain was striking. The Spaniards possessed a noble and expressive language, but no literature—a vast fund of poetical capabilities, but no poetry. Historical events had been transmitted to them, not in the stubborn unyielding form of a chronicle, but in the changing garb of tradition, to which every successive possessor had added new ornaments. With them the military profession was every thing—with the Arabians it was nothing:—the former, like the other Gothic nations, surrounded themselves with romantic—the latter with classical associations. The Arabs had appealed but little to national feelings or recollections. It was for himself that the poet claimed the sympathy of his readers;—with his own hopes and fears—happiness or misfortune. It

was a solitary appeal—a selfish inspiration, which operated only by its individual excellence or insignificance. But the Spaniards had been unconsciously surrounding history with the light of imagination—linking great names with greater deeds—concentrating those universal recollections in which every one feels he has a part, and silently building up the fabric of national poetry on the basis of national enthusiasm.

But it was impossible that a connexion so intimate as that which had subsisted for centuries between the rival nations, should be without its effect. Arabia exercised on Spain, the influence of knowledge over ignorance; but she, at the same time, felt the power which a great and commanding character must exert over minds of more cultivated but feebler texture; and while Spanish literature was refined by the intercourse with the Arabians, the influence of the chivalrous spirit and devoted patriotism of Spain, on Arabian feeling, was visible in an increased elevation of tone—a stronger sense of national dignity, and a system of manners, which, as delineated in the ‘Civil wars of Granada,’ might have vied in gallantry, refinement, and knightly courtesy, with the most splendid imaginations of Amadis and Palmerin.

In tracing the influence of Arabian on Spanish literature, a distinction must be kept in view, which, as far as we are aware, has been hitherto overlooked, but certainly existing in fact, as it is explicable on philosophical principle. That influence was not equal. Between the narrative poetry of the Spaniards and the literature of the East, there exist scarcely any features of resemblance;—between what in both countries may be called the poetry of sentiment, the relations are infinite. The *Romances* do not possess a single characteristic which we have been accustomed to consider as *peculiar* to Oriental literature. Instead of that diffuseness—that conglomeration of imagery, and that taint of exaggeration, which seems inseparable from Eastern poetry, they are characterized by a peculiar spirit of simplicity—a straight-forward earnestness, which thinks only of the end, and presses on, without turning to the right hand or the left, in search of ornament. But there is another point of distinction still more striking. There is no surer test of the influence of one nation over another, than the adoption or rejection of its fictions. Arabia, it is true, had no narrative poetry—but she possessed a substitute, to ordinary minds as brilliant and captivating, in those splendid tales of wonder and enchantment, which have excited so powerful an influence over the literature of Europe; and had they been in unison with the Spanish character, it is but reasonable to suppose, that that in-

fluence, which extended to countries so remote from the seat of these fictions, should have been strongest where their operation was most direct and immediate. But the stream of fiction, like the fabled waters of Syracuse, seems to seek a congenial climate, and to rise into light when its appearance is least expected. While the early Romances of France, and the *Fabliaux* of the Trouveres, exhibit, at every step, the traces of Arabian imagination, with which we have become familiar, in the poems of Berni and Ariosto,—those splendid palaces that rise in deserts, glittering with gold and diamonds—those magic rings, flying horses, impenetrable armour, and enchanted castles—those genii, giants, peris and magicians, presiding over the destinies of mankind, and alternately persecuting or protecting their votaries;—or those humbler tales of humour and comic adventure,* which seem to have been so congenial to the imagination of Boccaccio and the Italian novelists,—the Spanish poetry is of a character completely opposite. Their earliest romances, which are those relating to Charlemagne and the Peers, though founded on subjects connected with the French romances by strong analogies, have treated them in a manner totally different; and the romances of Amadis and his descendants, in which the characteristics of Arabian invention are subsequently to be found, were, in their leading features, borrowed at second-hand from that mass of romances which appeared in France under the reign of Philip (1275 to 1280), when his venal court flattered him with the title of a second Charlemagne. The causes of this striking difference between the traces of Arabian influence in the narrative and in the lyrical poems, is, after all, not difficult to be accounted for. Narrative poetry is little susceptible of variation. In the recital of events, there are always some fixed points—some things, which, in all ages, will be related nearly in the same way—some features which do not yield to the change of habits or the polish of thought. But the poetry of sentiment follows the course of manners. Rough and impassioned in their infancy, it advances with them to cultivation, and sinks with them into artifice and over-refinement. Besides, the mass of tradition which was embodied in the Spanish romances, had existed long before Arabian literature arose to em-

* Such are the *Fabliaux* of 'Le Manteau mal taillé, from the Mirror of Prince Zeyn Alasnam—Lanval, from the story of Peri Banou—Constant du Hamel, from the Bahar Danush—Du Voleur qui descendit, from the Fables of Bidpai—Les Trois Bossus and Le Sacristain de Cluni, from the Little Hunchback—Les Trois Aveugles, from the Adventures of the Barber's Brothers—Les Jugement sur les Barrils, from the story of Ali Cogia.'

bellish or disguise. Its tales were familiar to the national mind, in their minutest details. They were consecrated and unalterable. But, till then, the Spaniards had not reflected, nor studied their feelings. Example had established no prescriptive rules—no canons of lyrical expression. With the knowledge of the Arabians, they had imbibed much of their habits and manners; and, feeling as they did, they expressed their feelings with the same alternations of fiery emotion and frigid analysis, with the same superfluity of expression, and the same extravagance of imagery.

Indeed, the supposition that the Romances, in their present shape, have been in any great degree indebted for their excellences to the influence of Arabian taste, could have arisen only from looking at one side of the question, and overlooking the influence, which, we have already said, Spain, in its turn, exerted over Arabia. No doubt, at a later period, the Ballads of Granada celebrated the same events as the Spanish romances, and in strains of a similar nature; but, instead of exerting any influence over the romantic poetry of Spain, these ballads themselves owed their existence to that spirit of chivalry which had preceded the establishment of the Arabian empire, as it was destined to survive its decline.

The narrative poetry of Spain, then, divides itself from the lyrical and didactic, by national as well as generic distinctions. And we have thus a double reason for adopting the arrangement, which it is our intention to follow out in this article; commencing with the narrative romances, and briefly resuming the connection of Spanish with Arabian poetry, when we come to consider the interminable *canciones* and *redondillas* of Spain.

Never perhaps has there existed in any country a richer fund of those materials, from which the Ballad Poetry of a nation takes its rise, than in Spain. Its history is fruitful of evil and of good; abounding with great events and striking catastrophes—with all that is calculated powerfully to elevate, to impress, and to agitate. The memory of the disastrous battle which had terminated the dynasty of the Visigoths in Spain—the rash revenge of Julian, and the mysterious fate of Rodrigo, were opposed to the splendid recollections of the field of Roncesvalles, the heroic resistance of Pelayo in Asturia, and the exploits of Bernardo del Carpio. Then came the glorious deeds of the Cid—his youthful quarrel—his love for Ximena—his devotion to his sovereign, repaid like that of Bernardo, with constant ingratitude—his residence among the Moors, and his triumphant return. Then, again, the scene darkened—the fraternal quarrels of Peter the Cruel and Henry of Trani-

tamara, the Spanish Polynices and Eteocles—the murder of the Master of St Jago—the melancholy fate of the innocent Blanche—the grief of Maria de Padilla, even more unfortunate than guilty, shook the mind with alternate feelings of horror and compassion. Last came the conquest of Granada, with all that mass of legends which it opened to the conquerors—its tournaments and fêtes of canes—its bull-feasts and Zambras—the glories of the Alhambra and Albaycin—the magic beauties of the Generalife—the quarrels of the rival houses of the Zegrís and Abencerrages, ‘those names so sonorous and so melodious,’*—the accusation of the queen—the tragedy of the Court of Lions—the murder of Morayma—and the romantic interest of the combat, where the honour of the queen was vindicated against the treacherous Zegrís by Spanish valour. The number of ballads founded on these and similar events, far exceeds that of any other nation; but this superiority in point of number is perhaps rather apparent than real. These poems which, in other countries, have been left to the imperfect recollections of the peasantry, or collected only when the best part of them had disappeared, had the good fortune to be published in Spain so early as the year 1510, in the Collection of Ferdinand de Castillo. His collection was followed by the *Cancionero de Romances*, of Antwerp, in 1555, that of Sepulveda in 1566, and the *Romancero Historiado* of Lucas Rodriguez in 1579. But, even if the number of Spanish romances does really exceed those which have been produced in other countries, the difference is sufficiently accounted for—partly by the nature of the climate, which allowed more time for recreation—and partly by the extreme ease of the system of Spanish versification, and the facilities afforded by the language.

But the difficulty lies, not in accounting for the number, but the peculiarities of the Spanish ballads. When we compare the early literature of Spain with those of other countries—with our own Border ballads for instance, we are at once struck by the visible superiority of the former in point of refinement and nobleness of tone. In general, we peruse the early monuments of literature with curiosity, rather than pleasure. They describe a set of manners revolting in themselves, but interesting, because they differ so completely from our own, in language which excites our interest, precisely because it seems to have created no surprise in the narrator; because *he* considers as a matter of course what appears to us so unaccountable; and our

pleasure is rather the result of comparison, than the effect of any thing which the works intrinsically contain. But the manners described in the Spanish ballads do not require the apology of the rudeness of the age, or derive their interest only from their opposition to our own. They are in themselves noble, delicate, and refined—breathing of courts and camps, and of bravery softened and humanized by chivalry.

The causes of this superiority, the existence of which is undoubted, must be looked for, in the peculiar circumstances under which Spain was placed. Its early constitution under the descendants of Pelayo, was peculiarly calculated to call forth exalted sentiments—to render a man important in his own eyes and those of others, and to nourish an enthusiastic temperament. But the feelings which a sense of independence, and the striking events of Spanish history were calculated to awaken, were also left in Spain to their free and unfettered operation. Separated from other countries by a barrier of seas and mountains, which rendered commercial intercourse almost impossible, she was allowed to indulge her enthusiastic propensities without restraint. Her feelings were not subjected to the test of examination or comparison, or chilled by the ridicule of strangers, who, uninfluenced by the same associations, would have looked upon her world of imagination only under the ridiculous point of view which enthusiasm always presents to the eye of reason. In the early literature of France and Italy, we perceive, at once, an *esprit de commerce* destroying all high aspirations—weakening passion by indifference—levelling every thing to the standard of utility, and preparing, from the first, that ridicule of great and generous emotions which was afterwards to characterize the works of Berni and Ariosto. Poetry has, unfortunately, at all times but too strong a tendency to descend. Every where it has been her fate gradually to narrow her flight—to stoop from divine to heroic, from heroic to common life: But it is an evil omen for the moral greatness of a nation, when its poets anticipate the period of ridicule, and accelerate by an unnatural impulse the rapidity of a descent, which is, at best, but too certain and too speedy. Poetry may be said to hang between earth and heaven; and *they* seem but little deserving of the gratitude of their countrymen, who endeavour to fix their attention on the degrading chains which pinion her to the ground, rather than on the golden links that connect her with heaven. But Spain was untouched by the influence of such feelings. There the glorious deeds of antiquity became blended with the habitual feelings of the people. They were in the

mouths of all the peasantry. * They were sung in the summer evenings to the accompaniment of the harp and the guitar, and they constituted the chief amusements of the solejares, when in winter the inhabitants of the villages court the beams of the sun, and, like the 'Council of Ten' in the Decameron, or the Mahometan story-tellers, circulate the stores of tradition.

The combined effects of these feelings of independence and of chivalrous enthusiasm on the poetry of the nation, will be intelligible by a single example. Every one is aware of the perfect indifference as to honesty and notions of property which is so common in the border ballads of England and Scotland, and of the vulgar and degrading nature of the subjects which they generally describe. Our minstrels seem to have known no distinction between the noblest actions and the most reprehensible. The exploits of Robin Hood—the outlaw Murray and Armstrong,—are, at least, as celebrated as those of Wallace or Percy. Sherwood Forest is as classic ground as Bannockburn. A Border foray is placed side by side with a battle; and the stealing of a mare or the 'lifting' of a given number of cattle, are celebrated with as much pomp as the proudest displays of valour or patriotism. The wild life of an outlaw seems to have had something in it particularly captivating; and there is nothing which is dwelt upon with more pleasure than the ideas of merriment and liberty attached to it.

'Merry it is in the grene woode,
'Among the levès grene,
'Whereas men hunt both East and West
'With bows and arrows keen.' †

Under a state of manners considerably more refined, but yet connected with ours by strong resemblances, we find in the compositions of the Trouveres the same tendency to waste the labour of imagination on subjects very unworthy of such inspiration. An ingenious trick, or a successful robbery, is always a subject on which they delight to expatiate,—such are the *Fabliaux*, 'Du Curé et des deux Ribands,'—'Brifaut,'—'Boiven de Provins,' and the well known tale by Jean de Boves, 'Les Trois Larrons,' which has been translated into most of the European languages. But the Spanish Ballads are pitched in a higher key. With the exception of some questionable exploits of Rinaldo, alluded to in one of the ballads relating to

* One theological writer inveighs bitterly against the popularity of the ballads of the Twelve Peers, which he styles the '*laus perennis de los zapateros*,' the prayer-book of the shoemakers or artisans.

† Adam Bell, Clym of the Clough, and William of Cloudeslye.

the court of Charlemagne, * and an incident in the Chronicle of the Cid, we do not recollect an instance where the early Spanish poets have ventured on this ground, which is so familiar to the Northern Minstrels and the French Trouveres. It was only under the reign of Charles V. that the '*picaresco*' taste was introduced and sanctioned, by the universal talent of Mendoza; and it is from the publication of his *Lazarillo de Tormes* that we must date the appearance of that host of novels, describing only the adventures of sharpers and minions of the moon, which Le Sage has presented in a softened shape, and adorned with all the graces of polished satire, in his *Gil Blas*.

Another striking feature of these ballads, and perhaps the only one which can really be traced to the influence of the Arabs, is the spirit of humanity and gentleness which they indicate. Elevation of thought, courage and respect for engagements, are consistent with a very imperfect degree of civilization; but humanity in war is the product of an enlightened age. The Border warfare of our own countries was a contest of mutual barbarism, which tended rather to aggravate than to soften the native roughness of the combatants;—but the long struggle between Spain and Arabia was the meeting of rudeness with refinement; and war, which, in other countries, has been the means of perpetuating ignorance, was, in Spain, one of those instruments by which the national character was insensibly refined. The following expansion of the old Roman maxim, '*Parcere subjectis*,' &c. could only have proceeded from a nation accustomed to receive the like treatment from cultivated adversaries.

Perdone al vencido triste
Que no puede tomar lanza;
No des lugar que tu brazo
Rompa las medrosas armas;
Mas en tanto que durare
En tu contrario la saña,
No dudes el golpe fiero
No perdones la estocada.†

"Spare the unfortunate vanquished, when the enfeebled arm cannot wield the lance—Break not the bruised reed—But while the vigour of thine adversary endures, stint not the blow—spare not the thrust."

— The influence of this feeling of gentleness has extended itself in these ballads, both to the choice of subjects and the

* They are also mentioned in the First Chapter of *Don Quixote*, who admired Rinaldo exceedingly for the ingenuity of his robberies.

† The hermit, in the Romance of Ysaie, gives the hero the same lesson; "*Chevalier sois cruel a les ennemis—debonnaire a tes amis—humble a non puissans, et aimez toujours le droit a soutenir.*"—Ysaie le Triste.

manner in which they are treated. The early literature of Germany, as well as our own, is characterized by a fondness for extravagant horrors and details of cruelty; the natural result of that obtuseness of moral feeling which requires to be operated upon by the most violent stimuli, and which can find, in the ordinary course of human events, no sufficient source of excitement. No one can look at the ballads in Percy's *Reliques*, or the *Minstrelsy of the Border*, without being struck with the preponderance of disgusting details;—cool and deliberate murders perpetrated almost without a motive, and related in language which betrays no sort of feeling on the part of the narrator, and a constant leaning to the description of things offensive and forbidden. Such, for instance, are the ballads of Lord William, Lord Randal, Young Benjic, The Cruel Sister, The Jew's Daughter, and many others even of a darker cast, which will readily occur to any one at all acquainted with Scottish romance. Now, it is true that, in the Spanish ballads, the details of crime do occur, but the attention is artfully withdrawn from the catastrophe itself to the causes which lead to it; and its horrors are softened by the description of the struggles which preceded, or the remorse that followed, the commission of the crime. Let any one compare the Scottish ballad of Jellon Græme, which is too revolting to be quoted, but which narrates the murder of a young and helpless female by her lover, with the Spanish ballad of Count Alarcos, in which a similar tragedy is related. What cold blooded atrocity in the first—what mournful tenderness and pathos in the second! The melancholy flow of the prolonged consonante seems to add double sweetness to the ballad. When Alarcos receives from the king the fatal order to put his wife to death—

“ Llorando si parte el conde—llorando sin alegría *

“ Llorando por la condessa, que mas que a si la queria

“ Lloro tambien el conde, por tres hijos que tenia,

“ El uno era de teta que la condessa lo cria.

* * * * *

“ Antes que llegase el conde estas razones decia

“ Quien podra mirar condessa vuestra cara de alegria

“ Que saldreys a recebirme a la fin de vuestra vida

“ Yo soy el triste culpado—esta culpa toda es mia

* * * * *

* Our Spanish readers will perhaps be surprised at this system of compressing two short lines into one;—but we have followed Grimm; who gives three reasons for doing so:—1. That he thinks they were originally written in that way;—2. that if they were not, it would have been better if they had;—3. and lastly, that this manner of printing them is a great saving of room. It is this last reason that appears to us the strongest.

- " Sentose el conde a la mesa—no cenava ni podia
 " Con sus hijos al costado—que muy mucho los queria
 " Echo se sobre los ombros—hizo como que dormia
 " De lagrimas de sus ojos, toda la mesa cubria
 " Mirandolo la condessa, que la causa no sabia,
 " No le preguntava nada que no osava ni podia ;
 " Llevantose luego el conde—dixo, que dormir queria ;
 " Dixo tambien la condessa, quella tambien dormiria,
 " Mas entrellos no avia sueño—se la verdad se decia.

* * * *

In justice, however, we must observe, that there is one particular in which the Spanish Ballads have less pretension to a dignified morality. With all their respect for the Eighth Commandment, the Seventh, in its spirit at least, does not seem to have met with the same attention. We need scarcely remind our readers of the frequency with which the circumstances of pregnancy and parturition are brought forward in our ballads, and of the complacent tone in which such incidents are generally related. We rather think the allusions to this subject are less frequent in the Spanish, and they are certainly free from that libertine air which characterizes our own ; but enough remains to show, that, on these points, a very accommodating system of morality prevailed—very inconsistent, no doubt, with the ideal of chivalry, but, we believe, exceedingly consonant to its practice. The number of romances which are either founded entirely on such incidents, or in which allusions to them occur, are almost innumerable. Those of Reynaldos de Montalban—Conde Aleman—de las reales Bodas—de la Hija del Rey de Francia—and Don Galvan, occur to us at this moment. In Conde Claros, which bears a considerable resemblance in its opening to the ballad of Sir Cauline in Percy's Collection, and to Boccaccio's Gismunda, the interest arises from the consequences of an illicit amour. In the *Romance del Hijo del Rey de Francia*, the Infanta complains—

- " Tiempo es el Cavallero—tiempo es de andar d'aquí
 " Que ni puedo andar al pie ni al Emperador servir
 " Pues me crece la barriga—y se me acorta el vestir
 " Vergüenza he de mis donzellas las que me dan el vestir
 " Miranse unas a otras—no hacen sino reir."

To which she receives a reply more remarkable for its sang froid than its politeness.

- " Paridlo, Senora, Paridlo ; que así hizo mi madre a mí."

In the *Romance de Baldovinos y de la linda Sevilla*, the lady convicts Nuño of a falsehood with regard to the death of her lover, by proving a clear *alibi*.

- " Nuño vero—Nuño vero mal Cavallero provado
 " Yo te pregunto per nuevas—tu me respondes al contrario

" *Que aquesta noche pasada conmigo durmicra el Franco ;*

" *El me diera una sortija—yo le di un pendon labrado.*"

And in another we find no less a personage than Virgil doing penance in person for seven years. *

" *Por una traycion que hizo en los palacios del Rey*

" *Porque forzo a una donçella, llamada Doña Ysabel.*"

Before concluding these general remarks on the characteristics of the Spanish Ballads, we may notice, that, while the Arabian mythology and fictions seem never to have made any figure in the early poetry of Spain, few traces are to be found of those darker and more gloomy imaginations which are so common in the literature of the Northern nations. Voices, apparitions, and spirits that ride in mists and storms, are peculiar to the latter. A belief in dreams and omens only is common to them with the Spanish Romances. The dream of Doña Alda, before she receives the intelligence of the death of her husband at Roncesvalles, is quite in the style of the Northern ballad.

We use Mr Lockhart's translation.

' O my maidens, quoth the lady, my heart it is full sore,
I have dreamt a dream of evil, and can never slumber more.

For I was upon a mountain, in a bare and desert place,

And I saw a mighty eagle, and a falcon he did chase,

And to me the falcon came, and I hid it in my breast—

But the mighty bird pursuing, came and rent away my vest—

And he scattered all the feathers, and blood was on his beak,

And ever as he tore and tore, I heard the falcon shriek—

Now read my vision, damsels, now read my dream to me,

For my heart may well be heavy, that doleful sight to see.'

Our Teutonic Minstrel is a little more rude.

' I dreamt in my sweven on Thursday eve,

' In my bed whereon I lay—

' I dreamt a grype and a grimlie beast

' Had carried my crown away.

' My gorget and my kirtle of gold,

' And all my fair head geare ;

' And he would worry me with his beak,

' And to his nest y-beare.

* Those who are acquainted with the figure which Virgil makes in the writings of the middle ages, will not be surprised at the odd situation in which he is placed by the Spanish poet. The writers of that day seem to have delighted in exhibiting the great characters of antiquity as victims of love. In the Romance of Vergilius, a story is given of his having been pulled half-way up a tower in a basket, by a lady of whom he was enamoured, and then left suspended and exposed to the ridicule of the multitude. The story has been transferred to Hippocrates, and occurs in the *Fabliaux*. It is one of those, we believe, that has been verified by Imbert.

- ‘ Saving there came a little grey hawke,
- ‘ A merlin him we call,
- ‘ Which unto the ground did strike the grype,
- ‘ That dead he down did fall. ’—*Sir Aldingar.*

The absence of the darker features of the marvellous, is certainly one of those national peculiarities which may safely be attributed to the influence of climate. The imagination of the North has taken a tinge of gloom from their stormy and inconstant skies ; but the sunshine of the South scatters the mists in which spirits find their origin and their refuge. We recollect no instance, in the *Fabliaux* of any tale, in which such machinery as spectres or evil spirits are employed—and, in the prose romances of chivalry, only the adventure of the haunted chamber in *Ysaie le Triste*. In the early literature of Italy, the ghostly story of *Nastagio* in the *Decameron* is the first, and almost the only instance of its occurrence ; and that tale was not the invention of Boccaccio, but borrowed from the *Chronicle* of a *monk* of the thirteenth century, named *Helinandus*.

With these slight remarks on some of the more striking general features of these ballads, and the causes in which they have originated, we proceed to lay before our readers some specimens of different kinds, without the affectation of a formal classification, which every one at all acquainted with Spanish literature must feel, would, at best, be incomplete and unsatisfactory.

The first, and in our opinion the most interesting of these, are the series of Romances relating to the fabulous history of Charlemagne, and that shadowy band of paladins, which have received colour and a body from the romantic poets of Italy. It is easy to see how Charles was selected as the hero of these narratives. His reign had been a bright spot in the midst of darkness. It was the revival of old Empire—a period of striking changes and brilliant successes—‘ fierce wars and faithful loves ’—which, magnified by distance or distorted by the twilight of tradition, furnished to the poets of the succeeding age an ample field for the exercise of imagination. In their hands the Court of Charles was illuminated with the splendour of chivalry, and the Emperor of the West was invested with the pomp and circumstance of a hero of romance. He became the protector of Christendom—the patron of pilgrimages—the fierce enemy of Mahomet, and the scourge of idolatry. The earliest of these romantic histories is the *Latin Chronicle*, attributed to Turpin, a book in itself utterly worthless and insignificant, but which has acquired importance from its supposed connexion with the great romantic poems of Italy and Spain. Its absurdities however are of so ludicrous a cast, that we believe our readers

will be amused by an outline of its contents, such as may be sufficient to render intelligible some of our remarks on the Spanish ballads which relate to the events of the same period. *

This said Chronicle contains the account of two expeditions of the Emperor into Spain; the first of which was undertaken at the request of St James, who appears to him in a dream, and urges him to undertake a crusade for the delivery of his body, which it seems was concealed somewhere in Galicia, at that time in possession of the Saracens. The Emperor, without troubling the Apostle with inquiries as to how it came there, immediately collects a large army, and lays siege to Pampeluna, the walls of which, after a three months siege, follow the example of those of Jericho, but without the preliminary ceremony of sounding rams' horns. This miracle has the effect of reducing the whole country to submission; and Charles, after visiting the shrine of St James, and destroying idols assiduously for three years, returns to France. Scarcely, however, has he entered Paris, when a Pagan king, named Aigolandus, recovers the whole country which Charles had conquered with so much trouble, and the Emperor is under the necessity of marching back his army with great expedition into Spain. A long series of battles now takes place; and the result is, that Aigolandus is defeated, first in a theological controversy, and afterwards in a more serious encounter, near Pampeluna, with such slaughter, that the Christians are represented as wading in blood to the knees. Charles has now some reason to think he has succeeded in his object: But a certain giant, named Ferracute (the Ferrau of the Italian poets) a descendant of Goliath, appears upon the scene, and defeats the noblest paladins in Charles's army. Orlando, (the Achilles of France) is then, by his own request, sent out to meet him. The combat lasts two days without any thing decisive, being principally remarkable for the politeness with which it is carried on; for the giant, who was a person of somnolent habits, was under the

* There are several circumstances in Sismondi's brief account of this Chronicle, that induce us to think he had not himself read the work. First, it is the history not of one expedition, as he says, but of two; second, the laborious efforts of Orlando to break his sword,—*'Il frappe contre les rochers,—contre les arbres élevés—les chénes sont renversés, les rochers volent en éclats,'* have no warrant in the original, though they occur in the Morgante of Pulci, who cites *'la Storia'* (by which he means the Chronicle of Turpin), in his usual way in support of them; And, third, Sismondi, in endeavouring to support a theory to which he has an evident leaning, quotes Turpin, to prove that Charlemagne received knighthood from Galafons, while Turpin in fact says just the reverse, viz. that he bestowed it on him.

necessity of soliciting an occasional *sicsta*, which Orlando very readily accords him.

On the third day when Ferracute awakes, he finds Orlando seated by his side, who asks him in a friendly manner how it comes to pass that he was so very strong; because, says Ferracute, 'I am only vulnerable in the navel.' This answer of the giant looks, to be sure, a little like a *non sequitur*; but the knight contrives to turn the information to account in the sequel. Among other subjects of conversation, the giant then makes some inquiries as to the religious principles of his opponent, which immediately produce a confession of faith from Orlando. Ferracute, after maintaining a feeble argument against the possibility of the Trinity, the Immaculate Conception—the Resurrection and Ascension—is successively driven from all his positions by the paladin, who bewilders the dull-headed giant with a number of ingenious analogies, and cites some facts in natural history, with which we confess we were not previously acquainted; among others '*the mystic example of the lion, who, on the third day revives his dead cubs by licking them.*' This apposite illustration satisfies the giant as to the Resurrection; but still, he cannot see the possibility of an Ascension. This, however, is a weak objection; and accordingly, the answer of the Paladin is quite triumphant. 'Does not the wheel of the mill descend low 'and return to its height again? Does not the bird in the air 'ascend and descend? Can you not come down from a mountain and return thither,' &c.

Hitherto the work of conversion appears to make great progress; but, to the Paladin's utter confusion, the pertinacious giant suddenly proposes to settle the matter by an arrangement where he probably thought he appeared to more advantage than in disputation. He insists, in short, on fighting immediately; and the parties attack each other for the third time. The knight is for some time in imminent danger; but recollecting the information which Ferracute had imprudently communicated as to his weak side, he at last plunges his sword into the perforable part, and makes his escape. The death of this troublesome giant, and the submission of the Moorish kings Almanzor and Ibrahim, leave Charles no more employment in that quarter, and he returns to Pampeluna, where he encamps with his whole army.

Thus far the Chronicle is a mere monkish legend; but the event which follows, if not historical, is at least founded on history: though at this day, it is impossible to separate truth from fiction in the account of '*la dolorosa rotta.*'

'When Charlemagne with all his peerage fell

'By Fontarabia.'

The Spanish historians say, that Charles was invited into Spain by Alphonso the II., to assist him against the Moors of Cordova; but the nobles, instigated by Bernardo del Carpio, resolutely opposing any aid from so suspicious a quarter, Alphonso was reluctantly obliged to countermand the request. Charles, probably glad of a pretext for quarrel, proceeds, however, to march his army into Spain, and the troops of the rival nations met in the Vale of Roncesvalles, or the Red Valley, where the French were totally defeated, Orlando and most of the peers falling on the field. Such is the account of the matter given by Beuter (*Chronica de Valencia*, 1604. p. 158.); and it agrees in so far with the information of Eginhart, who mentions that Charles had, on one occasion, made an expedition into Spain. In the hands of Turpin, however, the story assumes a more romantic character. Gansion, who, under the name of Gan di Maganza, is represented by the Italian poets as a sort of incarnation of the evil principle,* covenants with the Moorish kings Marsir and Belegard, to betray the Emperor's army into their hands for twenty horse-loads of gold and silver. Charles, persuaded by the representations of this traitor, that the Paynims were willing to embrace Christianity, set out from Pampeluna on his march home, through the passes of the Pyrenees. He passed the Strait himself in safety, with part of his army; but the rear, commanded by his nephew Orlando, Count of Mans and Guienne, was attacked by an ambuscade of the Moors in the narrow strait leading into Gascony; and the Christians, overpowered by numbers, were totally defeated,—only Orlando, Baldwin, and Theodoric, surviving the catastrophe.† Orlando, wounded and weary, alighted from his horse near a block of marble, in the meadows of Roncesvalles, and drawing his sword Durenda (Durindana), he addressed it in a long complimentary speech; and to prevent it from falling into the hands of the enemy, struck it three times against the block of marble, and dashed both to pieces. He then sounded that miraculous horn, alluded to by Dante and Pulci, which reached the ear of Charles eight miles off at St Jean Pied de Port. In the effort, however, he burst the veins and nerves of his neck; sank

Dante, whose acquaintance with Gan seems to have been derived from the romances founded on the Chronicle, places him in Hell, near Tribaldello, the betrayer of Faenza, and Ugolino.—*Inf.* c. xxxii.

† Turpin, however, it may be observed, soon contradicts himself; for, in the next chapter, Orlando, by blowing his horn, collects about a hundred fugitives who were retreating by the Roncesvalles road.

down, confessed himself, and expired. Turpin was at that time standing by the king's side in Charles's Valley, where he fell into a trance, and, seeing a troop of demons escorting some souls through the air, he asked the meaning of this *cortege*. The demons told him they were on their way to Gehenna with the soul of Marsir—but that Michael was close behind, bearing the *Hornwinder* (*tubicinem*) to Heaven. Turpin related the vision to the king, who immediately marched back to Roncesvalles, and pronounced a funeral oration over Orlando, whom he found lying in the form of a cross. He then made a vow to exterminate the Pagans; and the sun stood still at Saragossa for three days to accommodate him, as it had done to his prototype Joshua. Ganalon was torn to pieces by horses; and the funeral of Orlando and his companions was soon after followed by the death of the emperor himself, which was announced to Turpin in another of his trances.

Such is the Chronicle which is supposed to have exercised such an influence over the romantic poetry of Italy and Spain; but which, in point of fact, is connected with the Italian poems and the Spanish romances, by little more than a correspondence of names. Any one who is at all acquainted with Italian poetry, must be aware, that with the exception of the death of Orlando at Roncesvalles, which is introduced by Pulci into the *Morgante*,* scarcely a single incident in their great romantic poems is founded on any thing contained in the Chronicle. The mistake must have originated in their system of quoting Turpin when about to venture on any gross absurdity, which they think requires a precedent. Thus, Pulci cites Turpin to prove, that when Orlando begged pardon of his dead horse, the animal opened his eyes, which he admits 'was a strange thing.' (Canto xxvii.) And Ariosto mentions, that when Orlando threw a large table among twenty robbers, Turpin relates that only seven escaped, 'Scrive Turpino appunto che furon sette' (C. 13.)—absurdities, for which the veracious Archbishop was not answerable. The connexion between the Spanish Ballads and the Chronicle is really equally slight—the incident of the battle only is common to both; but the death of Orlando, which, in the Chronicle, is the chief subject of interest, is but slightly alluded to in the Ballads. Nor, in fact, can it be said, from any thing in those Romances, that the Chronicle of Turpin it-

* Even there, the additions made by Pulci alter the account of Turpin materially. Pulci introduces Turpin himself confessing Orlando on the field—and Rinaldo survives the battle.

self was ever known in Spain at all,—though it is probable that some of the imitations, by which it was succeeded, and in which coincidences with the Spanish poems do occur, may have been circulated in Spain, and influenced in some measure its romantic poetry. After all, however, the greater part of the beautiful incidents of their ballads must be held to be original. They differ from the French and Italian poems and romances in many points. The names of Guarinos, Montesinos, Durandarte, Baldovinos, Galvan, Galvanos, Conde Irlas, Beltran, and many others, are almost peculiar to Spain. They place us among scenes of a totally different kind. We meet in them with no enchantments—no supernatural machinery. The incidents, though of an exaggerated kind, are still within the limits of possibility;—the characters are drawn with less violence to nature, and with more of the ordinary weaknesses and virtues of humanity about them. There is something also in general extremely captivating in the style in which they are narrated,—in the venerable simplicity and *naïveté* of the language—and the melancholy beauty of the prolonged consonante (or complete rhyme, which corresponds with ours), and which frequently gives an air of richness and beauty to compositions in themselves indifferent, by embalming them in melody. We say in general, because in some of the collections (Depping's, for instance), many of a more modern date are introduced, so palpably inferior to the earlier works, that the most superficial Spanish scholar must perceive the difference. In general, these later ballads are written in *asonantes* (rhymes where the vowels, but not the consonants, coincide). And in most, the names are borrowed from Boiardo. Now, as the names of Angelica, Medoro, Gradasso, Sacripante and others, which occur in these ballads, are known to have been adopted by Boiardo, from those of some families in his own fief of Scandiano, we cannot assign to them an earlier date than that of the publication of the *Innamorato* (about 1490); and it is probable they are mostly posterior to the work of Ariosto. We think, however, that independent of the evidence of dates, the characteristic differences of the two classes are too obvious to be overlooked.

We shall extract some passages from the famous ballad of the Marquis of Mantua, which must be familiar to the readers of *Don Quixote*. When the Knight was left on the ground, unable to rise after the drubbing he had received from the mule-driver, he began to amuse himself by calling to mind some passages of the books he had read; and, among others, he happened to hit upon the story of Valdovinos, when he was left wounded by Carloto on the mountain, which seemed to him a

case exactly in point. He began the romance, and had got as far as

“ O noble Marques de Mantua
“ Mi Señor tío Carnal— ”

—when a peasant came up to him and inquired how he came to be in that unfortunate condition ; to which the Knight replied, by giving him an account of an amour between his wife and the emperor's son, exactly as he had found it in the ballad. Don Quixote, however, showed his good taste in amusing himself with this romance, which is one of the finest in the collection. The whole tone of the piece is unique—and every incident prepares us for the catastrophe. The Marquis set out from Mantua, to hunt with his train by the sea-coast. While they were reposing at mid-day from the heat of the sun near a fountain, the unexpected appearance of a stag among the bushes set the party again in motion. The stag was strong and swift, and the sun set ere the chase was ended. The Marquis found himself left alone in a thick wood, that lined the base of the mountain where the stag had taken refuge. The thunder began to roll, and the lightning to flash about his head ; but still he rode on,* till he was roused by a loud cry from a valley, into which he was entering. He dismounted, and, by the brink of a rivulet, found a horse lying dead on the ground without his rider. While he was gazing on him, he heard from behind the groans as of some person wounded or dying ; and at the foot of an oak, he perceived a knight lying on the ground. The Marquis listened while he poured forth his dying complaints. The long enumeration of beloved names, which, in the simplicity of the original, is affecting, would be ludicrous in translation.

“ Esposa mia y Señora no cures de me esperar
“ Hasta el día del juycio no los podemos juntare
“ Se viviendo que quesiste al morir lo has de mostrare
“ No en hacer grandes estremos, mas por el alma rogare
“ O ! mi Primo Montesinos—infante Don Meriane
“ Deshecha es la compañía en que solíamos andare
“ Ya no esperyes mas de verme, n'os cumple ya mas buscar
“ Que en balde trabajareis pues no me podreys hallare
“ O ! esforcado Don Reynaldos—O ! buen paladin Roldane
“ O valiente Don Urgel, o ! Don Ricardo Normane
“ O ! Marques Don Olivero—O ! Durandarte el Galane
“ O ! Archeduke Don Estolfo—o Gran Duque de Milane
“ Donde soys todos vosotros?—no venís a me ayudare

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* The ballad says for 10 miles—about 40 of ours. This was a long ride, but every thing is on a great scale in these romances.

He then addresses his uncle, unconscious of his presence,

- ' O! noble Marques de Mantua—mi Señor tio carnale
' Donde estays que no oys mi doloroso quexare.—?
' Que nueva tan dolorosa os sera y de gran pesare—
' Quando de me no supierdes, ni mi pudierdes hallare
' *Hezistes me heredero por vuestro estado heredare*
' *Mas lo avreys de ser mio, aunque soys de mas edade.*
' O mundo desventurado—nadie deve en ti fiare
' Al que mas subido tienes—mayor cayda hazes dare.'

The Marquis now draws near, and unlaces his helmet. It is indeed his nephew Baldwin, mortally wounded by the treacherous Carloto, the son of Charlemagne.* He wipes the blood from his face, kisses his lips, and exclaims—

- ' O sobrino Baldovinos—me buen sobrino carnale
' Quien os trato de tal suerte—quien os traxo a tal lugar?
' *Quien es el que a vos malo—que a mi vivo fue a dexare!*
' Mas valiera mi muerte que la vuestra en tal edade
' No me conoceys sobrino por dios queraysme hablare
' Yo soy el triste Marques—que tio soliades llamare'

* * * *

- ' *Yo la muerte de mis hijos con vos podia olvidar*
' Agora mi buen Señor, de nuevo avre de llorar,
' A vos tenia por sobrino—para mi estado heredare
' Agora por mi ventura yo os avre de enterrare.
' Sobrino de aqui adelante yo no quiero vivir mase
' Ven muerte quando quisieres no te quieras detardare!
' *Mas al que menos te teme, le huyes por mas pesare.*
' Quien le llevara las nuevas amargas de gran pesare
' A la triste madre vuestra?—quien la podra consolare?
' Siempre lo oy decir—agora veo ser verdade
' Que quien larga vida vive, mucho mal ha de passare
' Por un plazer muy prequeño, pesares ha de gustare.'

Over his dead body the Marquis pronounces a solemn vow of vengeance against Carloto, the result of which is given in the ballad entitled *La Embaxada*. He despatches Count Irlos and the Duke of Sanson to Paris to impeach Carloto before his father, who refers the decision to a jury of the peers—and the guilty prince is condemned and executed.

The ballad of Count Irlos also contains some admirable situations, though the interest is materially lessened by the consideration, that the Count, by his absence and his unreasonable silence, had been in a great measure the author of his own

* Our readers need not expect to meet with any information as to this apocryphal prince in Alcuin or Eginhart. He is the sole property of the Romancers.

misfortunes. But his feelings, when, after fifteen years self-banishment in Palestine, he contemplates the possible changes that may have occurred in his absence, are beautifully described. He calls together his soldiers, and addresses them.

- ‘ O ! erforçados cavalleros—o mi compañía leale
- ‘ Yo conozco aquel exemplo, que dizen, y es gran verdade
- ‘ Que todo hombre nacido—que es de huesso y de carne,
- ‘ El mayor desseo que tenia era en sus tierras holgare.
- ‘ Ya complidos son quinze años y en deciseys quiere entrare
- ‘ Que somos en estos reynos y estamos en soledade.
- ‘ *Quien tenia muger hermosa vieja la ha de hallare,*
- ‘ *El que dexo hijos pe que nos, hallar los ha hombres grandes*
- ‘ *Ni el padre conocera al hijo—ni el hijo menos alpadre,*
- ‘ *Hora es mis cavalleros de ir a Francia a holgare.*’

His fears are verified. When, on landing in France, he sets out with impatience for his castle—he sees his arms no longer displayed on the gate of the town. He asks, with prophetic feelings of dread, to whom these territories now belong, and is told they *once* belonged to Count Irlos, but are now the property of Prince Celinos, who had succeeded by forging accounts of his death, and the importunity of the Emperor in forcing his wife into a marriage—and that the ceremony was about to take place in Paris immediately. The remaining events of the story are given with a rapid and vivid interest. The Count returns to Paris—seeks the palace of his uncle Beltran by night—discovers himself to his wife—despatches a message to his friends, Gayferos and Rinaldo—and, next morning, impeaches Celinos, Orlando and Oliveros, before the Emperor. His defiance is immediately accepted by the impetuous peers. It is in vain that Turpin endeavours to restore harmony among the twelve. All Paris is in confusion; and the Court is threatened with a civil war, till the tumult is appeased by the Emperor’s consenting that Celinos shall for a time be struck off the list of Peers.*

We have dilated so much on these Chivalrous Ballads, that

* Though these Ballads of the Peers display very considerable invention, any one who has perused the collections of Grimm, and Damian de Tortajada, will be aware that the same incidents frequently recur, under a change of names. Combats of the Peers are always broken off by the appearance of the Emperor. The discovery of Baldovinos on the mountain corresponds with that of Durandarte after Roncesvalles. The death of Galvan, in Gayferos, (which bears a close resemblance to Alfieri’s *Merope*)—with that of Tomillas in Montesinos; and Galalon and Tomillas practise the same arts against Orlando and Grimaltos.

we must be proportionally brief in our specimens of those which are taken from history. These are, in general, much shorter—much less continuous—and, in our opinion, much less interesting than the *Romances* of the Peers. They are, as Bouterwek observes, little pictures representing only situations, without any attempt at the interest arising from a progression of incidents, but striking by the truth and minuteness of their details, and the fine strain of natural feeling which many of them display. The earliest of these ballads relate to the defeat of Roderick, who, with all his faults, was regarded by the Spaniards with something of the same feeling with which the Scots look upon the memory of James IV. and the battle of Flodden. In the ballads, we meet with nothing of his weakness, his cruelty, or his licentiousness—we see only his courage, his remorse, and his devotion. When he flies from the field, it is with his sword broken, his helmet battered, his armour covered with blood, and his horse sinking under him. Such is the following ballad, in which we have attempted to imitate the effect of the continual repetition of the same rhyme. The occasional repetition of the same word is also warranted by the original.

‘ *Las Huestes de Rodrigo.* ’

From the eighth and fatal battle, where the Moor had won the day,
Fled the hosts of Don Rodrigo, scattered round in wild dismay—
Town and tower and royal palace soon behind him lessening lay,
When by every friend forsaken, Roderick took his lonely way.

From his weary steed dismounted, toil'd and weary where he lay,
Parched with thirst and faint with hunger, still he held his toilsome
way,

Dyed from head to foot in crimson, like some brand's devouring ray,
While his soiled and bruised armour told the fortune of the fray.

Drops of gore and dints of battle did his edgeless sword display,
Sunk upon his dusty forehead, deep his battered helmet lay,
On his cheek the frequent furrows grief's untimely hand betray,
As the mountain side ascending, one farewell he turned to pay.

Far below he saw his armies scattered o'er the plain away,
Arms whose glossy hues had vanished—waving pennons broad and
gay—

Royal standards torn and trampled by the foes amidst the clay—
Then he looked for all his captains—looked alas! but where are they?

All around that verdant valley where those crimson currents play,
Long he looked, and loudly weeping, thus he poured his mournful
lay—

‘ Yestereve these vales and mountains—Spain's wide empire owned
my sway,

‘ Yestereve I was a monarch—what, alas! am I to-day?—

- ' Yestereve these lofty castles—lordly halls and fair array,
- ' All were mine, and at my bidding thousands waited to obey.
- ' Now amidst my falling fortunes, friends depart and loves decay—
- ' Luckless was that hour of sorrow—sad and luckless was the day
- ' When my evil fortune bore me—Lord of all this realm so gay,
- ' Since the gift an hour had given, one short hour could take away.
- ' Death the only friend remaining—why thy tardy step delay
- ' Roderick's heart will hail thy coming, when thine arm is raised to slay.

In another, which is evidently of a much more modern date, and which will serve to illustrate the superiority of the old ballads over the modern imitations of Lope, Gongora and others, he is described as flying over the plain of Xeres.

- ' While the warbling birds are dumb,
- ' And louder on the breeze the hum
- ' Of the rills is borne, that pay
- ' Their watery tribute to the sea ;
- ' While some solitary star
- ' Lends its lustre from afar,
- ' Sparkling with its lonely light,
- ' Through the dreary cope of night.
- • • • •
- ' Sad visions of his destiny
- ' Flit dark before his boding eye,
- ' As rolls upon his ear afar,
- ' The dying thunder of the war.
- ' Where shall he turn his eyes, that fall
- ' With wild and restless glance on all ?
- ' To heav'n ?—He fears that heav'n will shed
- ' Its vengeance on his guilty head.
- ' To earth ?—Alas, the very soil
- ' He presses is another's spoil.
- ' He heeds not, deeply occupied
- ' With thoughts o'ermastering all beside.
- ' He recks not of the battle's din
- ' Whose darker conflict is within ;
- ' And thus, with many a tear and groan,
- ' The Gothic monarch made his moan.
- ' O Roderick, Roderick, would that thou
- ' Hadst been in other years as now ;
- ' Hadst thou thy passions learnt to flee,
- ' As now thou fly'st thine enemy ;
- ' Nor weakly sunk, in evil hour,
- ' A willing captive to love's power.
- ' Weakness unworthy of thy fame—
- ' Thy Gothic blood—thy royal name—
- ' Unsullied might our glory stand,
- ' Unhurt that brave and faithful band,
- ' That now with crimson current dye
- ' The grassy turf whereon they lie.
- ' O ! fair and fatal enemy,
- ' A second Helen doomed to be.
- ' Would that less lovely thou hadst been,
- ' Or I thy beauty ne'er had seen.

Quando las pintadas aves
Mudas estan y la tierra
Atenta escucha los rios
Que al mar su tributo llevan
Al escaso resplandor
De qualquiera luciente estrella
Que en el medroso silencio
Tristemente centellea

Tristes representaciones
Ante los ojos le vuelan
Hiere el temeroso oido
Confuso estruendo de guerra.
No sabe donde mirar
De todo teme y recela.
Si al cielo—teme su furia
Porque hizo al cielo ofensa.
Si a la tierra—ya no es suya
Que la que pisa es agena,
Pues que ?—Si dentro en si mismo
Con sus memorias se encierra ?
Mayor campo de batalla
Dentro el alma le aparece ;
Y entre sollozo y suspiros
Asi el rey Godo se quexa.
' Desventurado Rodrigo
' Si esto en otro tiempo hicieras
' Y huyeras de tus deseos
' Al paso que agora llevas,
' Y a los asaltos de amor
' No mostraras la flaqueza
' Tan indina de hombre Godo
' Y mas de rey que gobierna
' Gozara su gloria Espana
' Y aquella fuerte defensa
' Que ya por el suelo yace
' Y el color cambia a las yerbas—
' Amada enemiga mia
' De Espana segunda Elena,
' O ! si yo naciera ciego
' O ! tu sin beldad nacieras !

" Or that the breast that nurture gave,	Pechos que mi dieron leche
" Had given that better gift, a grave.	Mejor sepulcro me dieron.
" Then had I sunk in peace to rest,	Pagara a la tierra el censo
" And slept upon earth's silent breast,	Y en su soledad durmiera
" Whose still, yet peopled chambers hide	Con los consules y reyes
" The prince and peasant side by side."	Y con los plebeios de ella.

This is very elaborate, and very moral; but it wants the feeling, simplicity and tenderness, of the old ballad.

The ballads which relate to the Cid Ruy Diaz de Bivar are already well known to the public by the specimens in Lord Holland's *Life of Lope*. The events which they record are in themselves romantic and interesting enough, but the poetical merit of the *Romances* is not great. Of the original Chronicle of the Cid, from which these ballads are taken, we have said, and intend to say nothing. We confess, notwithstanding our enthusiasm for Spanish poetry, we have found it a difficult task to drag through even the half of this barbarous poem, to which Sanchez assigns the date of the twelfth century, and which, whatever may be its merits as illustrating the progress of the language, or whatever its influence on the later ballads of the Cid, must be admitted to be a very unreadable book.

The last class of *Romances* to which we shall allude, is that which relates to the Civil Wars of Granada. We have already mentioned the influence which the reaction of Spanish character had exerted over the Arabians. While the original Arabian poetry is almost purely lyrical or didactic, the Moors of Spain had formed to themselves a popular literature every way resembling that of their hostile neighbours. The same ballads were frequently chaunted by the poets of the two countries, celebrating the same heroes and the same events. When at last the city of Granada surrendered in 1495 to Ferdinand and Isabella, all the stores of Arabian fancy were added to those of the conquerors; and the influence of this acquisition soon became visible on the poetry of Spain. The Moorish ballads are distinguished from those that preceded them, by a richer colouring and greater profusion of ornament; as they are distinguished from those that followed by retaining amidst their embellishments the natural tone of the early ballads. The treasures of nature and art which the possession of the paradise of the world had opened to them, seem to have inspired a taste for descriptive poetry, which, in the compositions we formerly noticed, is extremely rare; and the gallantry of the luxurious Court of Granada to have communicated to the Spanish Ballads a sentiment of tenderness and grace which set off to advantage the warlike character of the Historical Romances.

The ballads which relate to the fall of Granada, as Mr Dunlop observes, in a short outline which he gives of 'Las Guerras Civiles,' present 'the strange but not uncommon spectacle of a nation expiring in the midst of revelry and amusement. Its gates were assaulted by a foreign enemy—the energy of the people was employed, and their valour wasted in internal war; but nothing could interrupt its festivity. Every day brought fresh disaster without, and new bloodshed within; but every vacant hour was devoted to carousals, and to idle and romantic gallantry.' The cause of these internal quarrels, and the connecting link of the ballads in the work of de Hita, is the quarrel of the rival houses of the Zegris and Abencerrages. In these families, which are placed in continual contrast, the Moors seem to have embodied the ideas of depravity and excellence. The Abencerrages are conspicuous for every virtue—noble, generous, open-hearted and brave; the Zegris dark, designing, treacherous and envious, with only the single virtue of a daring courage to palliate their vices. These last play nearly the same part in the Moorish Ballads as the Children of Carrion in those of the Cid. They are the occasion of all those tragedies which rendered the court of Boabdil el Chiquito a revival of that of Atreus,—which produced a civil war between a father, a son, and an uncle, and occasioned at last the surrender of the city. We should find it difficult, however, to select from these ballads any one sufficiently insulated to be intelligible without some explanation; and shall therefore venture to translate one not connected with the political events of 'Las Guerras Civiles.'

'Sale la Estrella de Venus, al tiempo que el sol se pone.'

'Softly rose the Star of Evening, soft the twilight waned away,
Shadowed by the darker mantle of the dusky foe of day.
There 'twas from Sidonia's city rode a young and gallant Moor,
Down by Xeres' flow'ry valley, by the long and sounding shore—
There where Guadalete wanders with his waters thro' the plain,
And our Lady's harbour rises o'er the waste and stormy main.
Noble name and lofty lineage nought avail to sooth despair;
She, his faithless lady, leaves him—he was poor as she was fair—
Leaves her young and gallant lover—leaves her father's halls to
wed
Wrinkled brow and craven spirit—Seville's rich and proud Alcayde.
To the silent air around him thus he told his tale of pain,
While a deep and wailing echo murmured back the sound again:
"Cruel as the stormy waters of yon dark engulfing sea,
"Ruder than the rocky bosoms of the barren mountains be.

"Zayda! canst thou still bethink thee of our loves, and yet resign
 "To another lord's embraces charms which I have clasped in mine?
 "Round a trunk so old and rugged weave those clasping arms of
 thine,

"And the plant thy love had cherished leave to wither and decline?

"Six long years of love and duty will thou cast at once away,

"Wedding thus with Abenzaydé—him the friend of yesterday?

"Wilt thou chuse him, rich in treasure, poor, indeed, in all be-
 side—

"Shall the spirit's nobler riches by the body's be outvied?

"Allah grant that he may hate thee—grant that thou may'st love
 again—

"Know the weariness of absence—prove the pangs of jealous
 pain—

"And the night her balm deny thee, and the day no rest afford—

"And thy presence still be hateful, in the chamber, at the board—

"At the banquet, in the dances, ne'er may he thy colours wear,

"Nor permit thee, at the lattice, even to sit and see him there—

"In the tourney or the battle slight the tokens of thy love—

"Wear no robe that thou hast broidered, wear no scarf thy fin-
 gers wove—

"But another's love's devices blazoned be upon his shield,

"And another greet his captives home returning from the field.

"Should'st thou hate him, grant thy penance weary years may
 linger on,

"Darker fate I cannot wish thee, nor a deeper malison."

Speaking thus, he came to Xeres at the middle hour of night;

There he found the bridal palace blazing all with festive light.

Crowding Moors with eager paces, here departing, there return-
 ing,

All with liv'ries gaily broidered, all with torches brightly burning.

In the middle path he placed him as the bridegroom nearer drew,

In his stirrups firmly raised him, poised his lance and pierced him
 through.

Then arose the cry of terror, then the Moor unsheathed his sword,
 And through all the crowd around him safely to Medina spurred."

We shall conclude our extracts from the Narrative Poems
 with the Ballad of La Niña Morena, describing the fears of
 a country maiden who had dropt her lover's present into the
 well. We avail ourselves of a beautiful translation of Mr
 Lockhart, which is very faithful to the spirit *though not to the*
words of the original. We think, however, it has been much
 improved in his hands.

"My earrings, my earrings! they've dropt into the well,

"And what to say to Muça, I cannot, cannot tell!"

It was thus Granada's fountain by spoke Albuarez daughter,

"The well is deep, far down they lie, beneath the cold blue
 water.

- " To me did Muça give them, when he spake his sad farewell,
" And what to say when he comes back, alas! I cannot tell!
" My earrings, my earrings! they were pearls in silver set,
" That when my Moor was far away I ne'er should him forget—
" That I ne'er to other's tongue should list, nor smile on other's
tale,
" But remember he my lips had kissed, pure as those earrings
pale.
" When he comes back and hears that I have dropped them in
the well,
" O! what will Muça think of me, I cannot, cannot tell!
" My earrings, my earrings! he'll say they should have been
" Not of pearl and of silver, but of gold and glittering sheen,
" Of jasper and of onyx, and of diamond shining clear,
" Changing to the changing light with radiance insincere.
" That changeful mind unchanging gems are not befitting well—
" Thus will he think, and what to say, alas! I cannot tell!
" He'll think when I to market went, I loitered by the way;
" He'll think a willing ear I lent to all the lads might say;
" He'll think some other lover's hand among my tresses noosed,
" From the ears where he had placed them my rings of pearl un-
loosed;
" He'll think when I was sporting so beside this marble well
" My pearls fell in—and what to say, alas! I cannot tell!
" He'll say I am a woman, and we are all the same;
" He'll say I loved when he was here to whisper of his flame;
" But when he went to Tunis my virgin troth was broken,
" And thought no more of Muça, and cared not for his token.
" My earrings, my earrings!—Oh! luckless, luckless well!
" For what to say to Muça—alas! I cannot tell!
" I'll tell the truth to Muça, and I hope he will believe
" That I thought of him at morning and thought of him at eve;
" That musing on my lover, when down the sun was gone,
" His earrings in my hand I held by the fountain all alone;
" And that my mind was o'er the sea, when from my hand they
fell,
" And that deep his love lies in my heart as they lie in the
well."

We have lingered long on the Narrative Poetry of Spain, and have left ourselves but little room to remark on the other poems which appear in these early collections. Luckily, however, the state of lyric poetry, before Garcilaso, is not likely to detain us long. The number of songs, and of moral and devotional poems in the Cancioneros, and in the excellent collection of M. Bohl de Faber, is no doubt immense; and the names of more than a

hundred poets are enumerated. But these compositions are distinguished by a monotonous resemblance—and of the names we know nothing, beyond the brief information as to some of them contained in the Marquis of Santillana's letter. It is the misfortune indeed of the early lyric poetry of Spain, that too much of it has been collected and preserved. In narrative poetry, the constant-succession of new events furnishes new subjects; but the expression of feeling is limited, and ideas and images, in themselves natural and affecting, appear forced and conventional by repetition. Thus, the constant succession of

“Lutti e lamenti, e lagrimosi lai”

in the Spanish poetry soon becomes insupportably monotonous, and those ‘Rimas Doctrinales,’ which appear to the enthusiastic M. Faber to contain ‘the quintessence of human wisdom,’* seem to us, with few exceptions, egregiously absurd and commonplace. The value of Spanish lyric poetry, like that of the books of the Sybil, would have increased by diminution; and the gift would have been received with delight, had Time consigned two-thirds to Oblivion, and presented Posterity only with the remainder.

The largest portion of these Collections is occupied with amatory poems; and it is here that the influence of Arabian

In the Spanish Villancicos, Canciones, and Chanzonietas, as in the Arabian Kasidas and Ghazelles, we perceive a continual blending of passion with conceit. We meet with the same monotony—the same melancholy—the same diffuseness—the same laborious attention to rhymes—and the same artificial limitation of the length and structure of particular poems, with which we are now familiar only in the sonnet. But the Spaniards have carried the system of point even farther than the Arabians; and unfortunately their conceits are seldom so ingenious or so striking as those of the East. With all its faults, the Arabian poetry teems with thought. We have distinct and varied images—striking though epigrammatic sentiments—and comparisons, which, whatever may be their effect in relation to the whole, are in themselves singularly apposite and ingenious. Even its conceits are frequently touching. We recollect nothing so beautifully delicate in the whole of these Spanish amatory poems as the distich of Ebn Zaiat, quoted by De Herbelot—

“Dicebant mihi sodales, si sepulchrum amicæ visitarem
Curas meas aliquantulum fore levatas.

* ‘El que entienda el castellano y tenga sentido poetico hallara . . . en las rimas doctrinales la quinta essencia de la sabiduria humana.’

"Dixi autem—An ideo aliud præter hoc pectus habet sepulchrum?" *

But the Spanish love poetry, with an appearance of profusion, exhibits a real poverty of sentiment. The same ideas—the same range of illustrations—is perpetually recurring; and any one who has read with attention a very few specimens of these poems, is as well acquainted with the general character of Spanish exotics, as if, like M. B. de Faber, he had devoted 'the leisure of twenty years' to the inquiry. Strange as the assertion may appear, this peculiar coldness and tendency to *conceitti* in the amatory poems, may be traced, we think, to the existence of that very spirit of chivalry which would seem at first to authorize an opposite conclusion. Chivalry was, no doubt, calculated to extend the *apparent* influence of the passion of love; but it had a tendency at the same time to weaken its real influence, by erecting it into a system, and rendering it less an impulse than a fiction and a habit:—till at last men chose a mistress, on the principle of the knight of La Mancha, merely because she was a necessary, and, to their knightly consequence. It is not amidst the éclat of tournaments and Cours d'amour, that the passion itself is most strongly felt, or that the poetry which expresses it acquires the deepest tone of feeling and nature. The *Canzos* of the Troubadours—the production of that country, where Chivalry had its birthplace and its favourite seat—where love seemed to be the mainspring of every action, and the sole business of life—where it was taught in academies, discussed in courts and parliaments, and its precepts embodied in legal judgments, † are, of all European compositions, the coldest and the most heartless;—while the feelings of nations (less refined in externals) cherished in secrecy and solitude—rarely exhaling in *Lais* and *Tensons*, or ostentatiously published at the tournament or the banquet, have communicat-

* The idea has been expressed, though perhaps with less beauty and simplicity, in one of the best of Bernardino Rota's Sonnets.

"Questo cor, questa mente, e questo petto
Sia il tuo sepolcro, e non la tomba o'l sasso
Ch'io t'apparecchio qui doglioso e lasso
Non si deve a te Donna altro ricetto.

"Not this cold marble which with tears I rear,
Shall be the last abode of worth like thine;
But in my breast, my heart, my spirit, here,
My love, shall be thy sepulchre and shrine."

† The *Arresta Amoris*, or Decisions of the Courts and Parliaments of Love,—of which several volumes have been published.

ed to their amatory poetry the natural fervour of soliloquies, rather than the paint and glitter of an ambitious display.

It would be a mistake, however, to suppose that the opinion we have expressed is to be received without limitations. It is the misfortune of general views, that what is true as to literature considered as a whole, is often necessarily false, as to some of the parts of which it is composed. Though the general tone of the amatory poems, contained in the collection of Faber, is languid, monotonous and uninteresting, many of them, particularly the shorter pieces, are exquisitely graceful, and beautiful. The epigrammatic character, which is so much out of place in the longer poems, appears here more excusable; and they are touched with a gentle spirit of melancholy—rather of the imagination indeed than of the heart, but which, combined with the regular returns of the rhyme, gives them a charm which we find it difficult to account for, even while we are sensible of its influence. We shall attempt to exhibit in English one or two of these specimens, though we fear much of their elegance will evaporate in translation. The following is one of those little poems, called *chanzonetas*, in which the idea introduced in the first quatrain is expanded in the rest, and the rhymes of the first repeated at regular intervals.

Bright eyes! though in your glances lie
Disdain and cruelty—
Bright eyes! ye cannot now deny
That ye have looked on me.

Though death within that frozen air
And angry glances lay,
What woe could with the bliss compare
Of gazing on their ray?
Though pierced with mortal agonies
My wounded bosom be—
I smile amidst my pain, bright eyes!
For ye have looked on me.

Ye looked on me with angry gaze,
And hoped to work me woe;
But good for ill, those heavenly rays,
And life for death, bestow.
For though your angry glances show
Disdain and cruelty,
Bright eyes! I cannot feel my woe
Since ye have looked on me.

The next is the *pendant* to the preceding, but is more touching and natural.

Fair eyes! be not so proudly gay,
In these your golden years;
The smile that glids the cheek to-day
To-morrow turns to tears.
Alas! thou knowest not,—(thou art
So used to victories),

Aunque con semblante ayrado
Me mirais, ojos serenos
No me negareis al menos
Que me habeis mirado
Por mas que querais mostraros
Ayraados para ofenderme—
Que ofensa podeis hacerme
Que iguale al bien de miraros?
Que aunque de mortal cuidado
Dexeis mis sentidos llenos,
No mi negareis al menos
Ojos que me habeis mirado.
Pensando hacerme despecho
Me mirastes con desden
Y en vez de quitarme el bien
Doblado bien me habeis hecho—
Que aunque los hayais mostrado
De toda clemencia agenos
No me negareis al menos
Ojos! que me habeis mirado.

Ojos bellos! no os fieys
Del buen tiempo que gozais;
Porque si hoy de me os burlais
Mañana me llorareis
Como estais acostumbrados
A alcanzar siempre victoria

How heavy on a lover's heart
His love's unkindness lies.
Soon will thy coldness waste away
My few remaining years,
And thou, when I have passed away,
May'st yet lament in tears.
Thou art so strong in loveliness,
So mailed in beauty's arms—
Thy haughty coldness is not less,
Than thy resplendent charms.
Yet think, ere death at rest shall lay
My sorrows and my fears,
That thou, when I am gone for aye,
May'st yet lament in tears.
That mirthful mood shall change, when thou
Shalt with sad eye discover
The death, alas! not distant now,
Of thy too faithful lover.
Then shall the cold disdain give way
That in those eyes appears.
Fair eyes, altho' in smiles ye slay,
Ye shall repent in tears.
More deep, more bitter grows my care,
As grows thy cruelty;—
My sighs are scattered on the air,
My hopes decay and die.
And can thy cheek be calmly gay,
While mine such sadness wears;
And canst thou bid me die to-day,
To wail that death in tears.

Desterrais de la memoria
Mis dolores y ciudades.
La vida me acabéis
Si en mi dano porfiais
Y quando así me perdáis
De veras me llorareis.
Con tanta seguridad
Vivís de vuestra belleza
Que ese rigor y aspereza
Es igual con la beldad:
Si con el estar qual me veis
Del remedio no curáis
Advertid que os condenais
A que muerto me lloreis.
De esta burla habra mudanza
Al tiempo que el tiempo acierte
A descubriros mi muerte
En la qual no habra tardanza:
Entonces vos perdereis
Ese rigor que mostrais;
Y aunque de burlas matais
De veras me llorareis.
Al compas del disfavor
Va creciendo mi tormento
Mis suspiros lleva el viento
Y mi esperanza el dolor.
Que suceso pretendéis
Pues siempre en calma os estáis
Sino que vivo queráis
Enterrarme y vos lloréis.

The following elegant little song is from the *Romancero General* of 1604, (f. 158.) which, though entitled *Romancero*, is, in many respects, a mere continuation of the *Cancionero*, and contains a numerous collection of songs and lyrical pieces. The one we have attempted to translate is a particular favourite in Spain.

O! broad and limpid river,
O banks so fair and gay—
O! meadows, verdant ever,
O! groves in green array.
O! if in field or plain,
My love should hap to be,
Ask! if her heart retain
A thought of me.

O clear and crystal dew,
That in the morning ray,
All bright with silvery hues,
Make field and forest gay.
O! if in field or plain,
My love should hap to be,
Ask if her heart retain
A thought of me.

O woods that to the breeze,
With waving branches play;
O sands, where oft at ease
Her careless footsteps stray;

Ebro caudaloso
Fertil ribera
Deleitosos prados
Fresca arboleda
Decilde á mi Niña
Que en vosotros huelga
Si entre sus contentos
De mi si acuerda?

Aljofar precioso
Que la verde yerba
Bordas y matizas
Con el alva bella;
Decilde a mi Niña
Quando se recrea
Si entre sus contentos
De mi se acuerda?

Alamos frondosos
Biancas arenas
Por donde mi Niña
Alegre pasea.

O! if in field or plain,
My love should hap to be,
Ask if her heart retain
A thought of me.

O warbling birds that still
Salute the rising day,
And plain and valley fill
With your enchanting lay.

O! if in field or plain,
My love should hap to be,
Ask if her heart retain
A thought of me.

Decilde si acaso
Oído os presta
Si entre sus contentos
De mi se acuerda.
Parlerillas aves
Que a la Aurora bella
Haceis dulce salva
Con harpadas lenguas
Decilde a mi niña
Flor de esta ribera
Si entre sus contentos
De mi se acuerda.

One other quotation from the little poems, entitled, *Villanecitos*, (*Romances General*, p. 406), shall close our specimens from the *Amatory Poems*. It has been frequently imitated by the writers of the 16th century.

Blow light, thou balmy air,
My lady's couch above;
Blow lightly there, ye winds, and spare
The slumbers of my love.
Let no rude blast be found
To mar her gentle sleep;
But all around a dreamy sound,
And drowsy murmur creep.
O fly! thou balmy air,
And by her couch remain;
Go, blend thee with her breath, and bear
Its balm to me again,
But lightly go, and gently blow—
Blow softly as my strain.
Blow gently, do not break
The stillness of her sleep;
I would not make my love awake,
Nor raise those lids to weep.
Ye winds, that, borne in happier hour,
May wanton as ye will,
If round her bower, ye have the power,
To creep and murmur still,
O lightly go, and gently blow,
And let her slumber still.

Mientras duerme mi niña
Zefiro alegre
Sopla quedito
No la recuerdes.
Sopla manso viento
Al sueño suave
Y enseña á ser grave
A tu movimiento.
Dame el dulce aliento
Que entre perlas finas
A gozar caminas
Y ufano vuelve
Sopla quedito
No la recuerdes.
Mira no despierte
Del Sueño en que duerme
Que temo que el verme
Causara mi muerte
Dichosa tu suerte
Dichosa tu estrella
Que a niña tan bella
Halagar mereces
Sopla quedito
No la recuerdes

The Religious poems are connected with the amatory more intimately than might at first be imagined. It seems to be the effect of Catholicism to confound as much as possible the spirit of religion with terrestrial emotions—to render it an impulse, and an excitement—and to impart to the language of devotion a sensual character. So much is this the case in the poems before us, that many of them can be distinguished as religious only from the place they occupy in the book—*‘Noscuntur a Sociis’*—not from any thing they themselves contain. It is sometimes puzzling enough to discover whether Petrarch's *anastrophes* are addressed to Laura or the Virgin; but in the Spanish *Obras de Devocion*, the expressions of devotion and gallantry are so identical, that they might, with perfect propriety, be ranged either under the head of amatory or religious poems.

Love is elevated into a divinity—and religion is degraded to the common tone of gallantry. To do them justice, however, it ought to be stated, that a mortal coldness pervades the whole; and wherever they are not ludicrous, they are intolerably tedious. *Coplas* on the Seven Mortal Sins, or the Twenty Perfections of the Holy Virgin—*Glosas* on the Creed and the Lord's Prayer—or plays upon the letters of the Virgin's name, even more contemptible than the eternal 'L'aura,' and 'Lauro' of Petrarca,* form the staple of these productions. Sometimes, however, this extreme naïveté and quaintness of the language is ludicrous. Thus, the Virgin expostulates with some sceptical opponents of the doctrine of the immaculate conception.

Porque se duda de mi
Pues hijo de Dios pari.
Dudan mi virginidad,
Por saber que he concebido—
Asi fué el verdad,
Pero fue por el oído,
Y la palabra que yo oí
Fue elvaron que yo pari.

Sometimes, too, the situations represented in these devotional poems, which appear to M. Faber so eminently calculated 'to elevate the mind and kindle religious feeling,' are incredibly absurd and ridiculous. One of them describes the journey to Bethlehem. Joseph is represented as comforting his wife—'Walk on, lady, we shall be in Bethlehem in an hour; 'I hear the cocks crowing.' He concludes by assuring her he would willingly give his ass to afford her relief.

Ay! señora mia
Se parida os viese
De albricias daria
Quanto yo tuviese—
Este asno que fuese
Holgaria dar.

* There is one circumstance connected with the ambiguous style in which Petrarch blends Laura and the Virgin together, and puns upon both, which has not been noticed, we believe, by his commentators. It appears to have been a common practice (for what reason we know not) to personify the Virgin under the form of a laurel. Luther, in his Commentary on Genesis, inveighing against allegory, which he calls '*formosa meretrix*,' attributes these inventions to the Monks—'*stolidi et otiosi monachi . . . Mariam fecerunt Lauram, Apollinem Christum.*' Ch. 30.

We learn from another the feelings of Adam on hearing of the birth at Bethlehem. He was 'in Limbo' at the time; but the moment the intelligence reached him, he made the round of his acquaintances the patriarchs, demanding their congratulations; and, not contented with this, insulted Lucifer on account of his downcast appearance.

' A todos los Santos Padres
A grandes voces decia
Dadme albricias! hijos meos

* * *

' Ved cual anda Lucifer
Con toda su compañía
No le placen estas nuevas
Que Dios Padre les envia.'

These are by no means the most striking examples which we have selected; but we have no wish to indulge in unnecessary quotations of this kind. How this juxtaposition of ludicrous and solemn ideas in the Spanish religious poems is to be accounted for, we cannot very well explain; since nothing is more evident than that the writers were perfectly in earnest, and had not the most distant intention of throwing ridicule upon religion. They have nothing of that sneering tone which pervades the works of the Trouveres, who were in general men of licentious character and habits, and selected religious subjects merely as the vehicle of satire, or in the hope of increasing the effect of ludicrous incidents by the solemnity of the ground-work. They resemble in some measure, however, those strange apostrophes to the Virgin, the Trinity, &c. with which Pulci prefaces the Cantos of his Morgante;—where the poet, seemingly with perfect earnestness and devotion, invokes the Divine assistance to enable him to complete twenty-eight cantos of ribaldry and buffoonery.

The *Rimas Doctrinales*, or Moral Poems, are not likely, we fear, to be in general more satisfactory. We shall hardly be reconciled to the approach of death, by being told that Samson, Hercules, Gideon and Judas Maccabeus, Absalom and Narcissus, Helen of Troy and the Virgin Mary (for such is the orthodox arrangement of Fernan Perez de Guzman), have preceded us: nor disposed to abandon the pursuit of fame, by Diego de San Pedro's assurance, that Ptolemy has pronounced the earth to be a mere speck—and that, as only the fourth part of this earth is habitable, our fame can at best extend to this fraction of a speck. Nor are we altogether convinced, by an elaborate argument of Cartlagena, where the poet, who is a strong advocate for moral liberty, endeavours to reconcile the existence of foreknow-

ledge with free will, by comparing God's prescience to that of a spectator at the game of rackets, who infers, from the superior dexterity of one of the players, that he will be the conqueror, though his knowledge does not in any way affect the issue of the game.

‘ Como quando aca entre nos
 Conoce algun mirando
 Cual ha de ganar de dos
 A la pelota jugando
 Bien asi contece a dios.
 Yo que miro desde aca
 Que el uno sobra en saber
 Al que maiia no se da
 Conozco que perderá
 Mas no le hago perder.’

Carthagera evidently thought he had set the question at rest by this illustration, for he proceeds triumphantly with a train of corollaries and moral inferences.

There is, however, one beautiful poem by Jorge Manrique, on the death of his father, so immeasurably superior to the rest, that it appears the production of another age. It is surpassed by nothing which we are acquainted with, in the Spanish language, except the odes of Luis de Leon. The flow of the verse, and the fine antique air of the whole, are inimitable; but we shall endeavour to present, in an English shape, some of the opening stanzas, observing, as nearly as possible, the peculiarities of the versification.

O! let the soul its slumber break,
 Arouse its senses and awake,
 To see how soon
 Life, with its glories, glides away,
 And the stern footstep of decay
 Comes stealing on.

How pleasure, like the passing wind,
 Blows by, and leaves us nought behind
 But grief at last;
 How still our present happiness
 Seems, to the wayward fancy, less
 Than what is past.

And while we eye the rolling tide,
 Down which our flying minutes glide
 Away so fast;
 Let us the present hour employ,
 And deem each future dream of joy
 Already past.

Let no vain hope deceive the mind—
 No happier let us hope to find
 To-morrow than to-day.
 Our golden dreams of yore were bright,
 Like them the present shall delight—
 Like them decay.

Recuerde el alma dormida
 Avive el seso y despierte
 Contemplando
 Como se pasa la vida
 Como se vien la muerte
 Tan callando:

Cuan presto se va el placer
 Como despues de acordado
 Da dolor
 Como a nuestro parecer
 Cualquiera tempo pasado
 Fué mejor.

Y pues vemos lo presente
 Como en un punto es ido
 Y acabado
 Si juzgamos sabiamente
 Daremos lo no venido
 Por pasado.

No se engañe nadie no
 Pensando que ha de durar
 Lo que espera
 Mas que duró lo que vió:
 Porque todo ha de pasar
 De tal manera.

Our lives like hasting streams must be,
That into one engulfing sea
Are doomed to fall :
The Sea of Death, whose waves roll on,
O'er king and kingdom, crown and throne,
And swallow all.

Alike the river's lordly tide,
Alike the humble riv'lets glide
To that sad wave ;
Death levels poverty and pride,
And rich and poor sleep side by side
Within the grave.

Our birth is but a starting place,
Life is the running of the race,
And death the goal :
There all our steps at last are brought,
That path alone, of all unsought,
Is found of all.

Say, then, how poor and little worth,
Are all those glittering toys of earth
That lure us here ;
Dreams of a sleep that death must break,
Alas ! before it bids us wake,
Ye disappear.

Long ere the damps of death can blight
The cheek's pure glow of red and white
Hath passed away :
Youth smiled, and all was heav'nly fair ;
Age came, and laid his finger there,
And where are they ?

Where are the strength that mocked decay,
The step that rose so light and gay,
The heart's blithe tone ?—
The strength is gone, the step is slow,
And joy grows weariness and woe
When age comes on.

Nuestras vidas son los ríos
Que van a dar en el mar
Que es el morir
Allá van los señores
Derechos a se acabar
Y consumir.

Allí los ríos caudales
Allí los otros medianos
Y mas chicos ;
Allegados son iguales—
Los que viven por sus manos
Y los ricos.

Partimos quando nacemos
And damos quando vivimos
Y llegamos
Altiempo que fenecemos
Así que quando morimos
Descansamos.

Ved de cuán poco valor
Son las cosas tras que andamos
Y corremos—
Que en este mundo traydor
Aun primo que muramos
Las perdemos.

Decidme ? la hermosura
La gentil frescura y tez
De la cara—
El color y la blancura
Quando viene la vejez
Qual se para ?—

Las mafías y ligereza
Y la fuerza corporal
De juventud ?—
Todo se torna graveza
Quando llega al arrabal
De senectud.

We must here close this sketch of the state of Spanish literature, antecedent to the age of Charles the V. We have not attempted to treat the subject historically ; because, in the absence of all early biography, any investigation as to the dates of particular poems is out of the question ; and, because the compositions of this whole era are connected by so many points of resemblance, and such a similarity of tone, that even if we possessed that information which is wanting, it would be impossible to present any definite notion of the characteristic differences of their authors. One or two names only, before the age of Juan II., have escaped oblivion ; and, among the learned men and poets of his court, Juan de Mena is perhaps the only one who enjoys among the Spaniards any degree of reputation. But those who are acquainted with his *Labyrinth*, will probably think that the praise has received, must have been accorded rather to the bold-

ness of his design, than to the happiness of its execution. It is, like Fazio d'Uberti's '*Detramondo*,' a laborious imitation of the *Divina Commedia*, the most inimitable of poems; with some few passages of interest and beauty, amidst a profusion of pedantry and bad taste. But such productions do not properly fall under our general view of *national* poetry; and we doubt not, our readers will readily dispense with an analysis which could not be relieved even by the variety of agreeable selection.

It is difficult to look back upon this early period of Spanish literature, without some melancholy recollections, and some gloomy anticipations. No where, perhaps, are the traces of the mutability of literature more strongly marked, or exhibited in more affecting colours. Centuries have already elapsed, since Arabia, that country that communicated to Spain and to Europe, the stores of her vast knowledge, has relapsed into her primitive barbarism. The Arab again wanders as rude as ever, over countries as wild as before. The colleges of Bagdad, of Balsa, and Samarcand, now appear only in fiction;—the vast libraries of Arabian literature are only to be traced in the collections of the *Escorial*,—and those poets, who were once honoured with the title of Divine, are passed over in silence by *De Herbelot*. Granada, on which the Arabians had lavished all the labours of art, now owes its beauties to nature alone;—the site of the *Albaycin* is disputed—the Generalife is a desert, and the *Alhambra* a ruin!

*Giace l'alta Cartago—e appena i segni
Dell' alte sue ruine il lido serba;
Muiono le citta—muiono i regni,
Copre i fasti e le pompe arena ed erba!*

The beautiful *Provençal*—the first born of European languages, which had also imbibed, through its intercourse with Spain, the knowledge and refinement of the East, after a blaze of three centuries, has expired. The language in which kings delighted to compose—in which *Thibaut* and *Alphonso* sung—and *Cœur-de-Lion* gave vent to his feelings in prison, has already become a dead language, a labour and a study;—and its *Troubadours*, once so celebrated, are now known only by the voluminous industry of *St Palaye*, and the eulogies of *Dante* and *Petrarca*. Over that period of Spanish literature which we have been considering, the same obscurity has spread. Its poets, whose compositions are now read, admired and commented on, have left behind them no trace to which the imagination can attach itself. They have 'died, and made no sign.' We pass from the infancy of Spanish poetry, to the age of

Charles, as through a long vista of monuments without inscriptions, as the traveller approaches the noise and bustle of modern Rome, through the lines of silent and unknown tombs that border the Appian Way. And who shall say, how soon the same principle of mutability may render the fall of our literature, in its turn, a subject of regret and inquiry;—how soon the philosopher may have to point out the operation of those principles, unseen by us, which have occasioned its decline;—how soon the poet may collect, and weep over its scattered fragments;—and the antiquary speculate among the ruins of our palaces, as he now does in the silent chambers of the Alhambra, or the nameless temples of Palmyra or Persepolis!

ART. VII. 1. *The Jurisdiction of the Lords' House of Parliament considered, according to Ancient Records.* By SIR MATHEW HALE: To which is prefixed, by the Editor, F. HARGRAVE, Esq., an Introductory Preface, including a Narrative of the same Jurisdiction, from the Accession of James I. 4to. London, 1823.

2. *Observations on the Delays complained of in the Court of Chancery and House of Lords.* 8vo. London, 1823.

WE reserved for a separate discussion the plans which were laid before Parliament at the end of last Session, and which had, for their principal object, the despatch of judicial business in the House of Lords. The improvements proposed may be classed under two heads; changes in the Courts below, especially in Scotland, from whence the bulk of the appeals proceed; and changes in the appellate jurisdiction. It is our intention at present to examine the latter only; because the Report of the Commissioners, who so ably and elaborately investigated the former subject during last autumn, is not yet before the public, possibly not yet finally digested,—whereas the House of Lords has already come to resolutions intended to be final, and which can only be prevented from becoming so by a disclosure of their imperfections. In undertaking this inquiry, we desire to be understood as offering our suggestions with all possible humility, from respect to the great powers and high privileges of the body whose proceedings are in question; and with unfeigned diffidence, from our sense of the difficulties inseparable from such an inquiry, and the vast importance of the subject. That subject is nothing less than the due administration of justice in every department throughout the realm. For who does not at once perceive that the controlling influence

of the Court of Appeal is felt in all the inferior branches of judicature? Even in causes which are decided in the first instance without appeal, the effects of the superintending power are experienced. The knowledge that their decisions *may* be reviewed, operates directly to restrain corruption and excite diligence, where an appeal lies; and where it does not, the habit of right judging produces a like result less directly.

The loud and universal complaints against the increasing delays in the House of Lords, as well as the Court of Chancery, appear to have at length excited, as they justly might, the serious attention of that branch of the legislature; and a select Committee was appointed last Session, 'to consider of the best means of facilitating the administration of justice, as connected with the hearing of appeals, writs of error, and other judicial proceedings.' When the mode of conducting this inquiry came to be known, it occasioned much observation both in Parliament and in the profession of the law. The investigation, it was said, comprehended necessarily the state of business in the Court of Chancery, because the high offices of Chancellor and Speaker of the House of Lords are now united; and the main question must always be, whether this union ought to continue or be succeeded by some other arrangement. And yet, it was remarked, no one practitioner in the Court of Chancery had been called to give information to the Committee. Instead of such testimony, the 'noble and learned persons who for many years have presided or assisted in the judicial business of the House,' (a circumlocutory form of expression for the Lords Eldon and Redesdale), were alone examined. Persons practising before the Lord Chancellor might indeed be slow to give evidence disagreeable to his Lordship; but that seemed no very satisfactory reason for making the noble Lord himself the principal witness in an inquiry of which he was himself also the principal subject. Lord Redesdale had never been within the walls of that Court since Lord Eldon presided there; an indifferent argument, it was said, for selecting his Lordship as the only other witness in such an investigation. But if the inquisitorial powers of the Committee had been applied to the principal Barristers, Solicitors, and Officers of the Court; and perhaps still more, if those had been examined who had either quitted the profession recently, or had not yet attained the height of practice which brings men into immediate contact with the presiding judge, it seemed certain that the whole matter would have been sifted to the bottom; and that the country, as well as the body of the law, would have been satisfied with the result.

It is material, that, before proceeding to consider the remedy proposed, and afterwards adopted somewhat hastily by the House of Lords, we should present a correct statement of the facts regarding the arrear so generally complained of as amounting to a complete denial of justice. The history of this, even during the few years to which the accounts in the Appendix of the Report extend, is very instructive.

From the beginning of May 1813, soon after the new arrangement of the business, in Chancery, by the creation of the Vice-Chancellor's Court, and in the Lords by allotting three whole days each week to judicial business, the number of cases decided before the end of the Session was 43, the number of new ones presented being only 24. This statement includes all the judicial proceedings of the House where there was any hearing; consequently every appeal and writ of error presented or disposed of from all parts of the United Kingdom, excepting only writs of error for delay, which being non-pros'd as of course, we deduct from both sides of the account. In the next Session, 1813-14 (Parliament having met before Christmas), there were 61 causes presented, and 81 decided; of these, 40 and 74 respectively were appeals, which occupy generally a much longer time. In the next Session, 1814-15, although Parliament again sat before Christmas, the proportion of the causes decided, to those presented, was greatly changed; there were of the former 53, and of the latter 58; and if, instead of the causes decided, we take the causes heard, and compare the two Sessions, we shall find the falling off in the business done still more remarkable; for, in the Session 1813-14, there were 78 causes heard, and 61 presented; but, in the Session 1814-15, there were only 46 heard, and 58 presented. The progress during the three following years is in the same direction; the decisions being 42, 35, and 26; the new causes, 52, 66, and 68 respectively, so that the arrear was increasing as 10, 31, and 42. In 1819, during a considerable portion of which the illness of the Lord Chancellor occasioned the necessity of having a Vice-speaker, there were 41 causes decided, and no less than 84 presented; and, in the two Sessions 1819-20 and 1820, the decisions were 24 (of which 14 only were appeals), and the new causes 76, being an increase of the arrear to the enormous amount of 52. In 1821 and 1822 together, there were 91 decisions, and 166 new causes; being an increase in the arrear of 37½ yearly.

The failure in the working of the new machinery created in the Session 1812-13, is thus sufficiently obvious. For the first two Sessions it was of considerable power, and disposed not

only of many new causes that were entered, but of a large number absolutely, the average being about 80 decided, and 78 heard. This extraordinary despatch was, however, short-lived; the Session 1814-15 having only decided 53, and heard 46. Nor can the duration of the Session, as compared with that of the former year, be assigned as the reason of the falling off; for the House of Lords sat only four days longer in the one than in the other, the Sessions being from November 4th to December 20th, and from March 1st to July 10th, 1813-14, and from November 8th to December 1st, and from February 9th to July 12th, 1814-15. But there was a relaxation in the system; holidays were invented; adjournments for one reason or another made; sometimes because there was a debate expected, sometimes because there were judgments to be considered; always when the first or last day of term fell on one of the cause days, and then an extra day was promised instead of the day so occupied; but the promise ceased to be regularly kept,—beside the loss of days, without any reason at all being assigned. Nor was this confined to the Session 1814-15; on the contrary, the average of business done in the seven following years is considerably below the amount of that Session, whether we regard the comparison between the decisions and entries, or the number of the decisions merely. The average of causes decided during these seven years was only 37, and of new causes entered 73. The Sessions 1819-20 are remarkable for the stagnation of business, and afford a curious illustration of the relaxation which we have been referring to. Parliament met before Christmas (as will for ever be remembered), in order to pass the celebrated Six Acts. During the time that it sat before Christmas, there was no business except those acts,—although the House of Lords was very little occupied with them. The death of the late King assembled the House again for a month after Christmas, when it had still less to do. This whole Session enabled their Lordships to hear and decide no less than one writ of error, and to hear, without deciding, exactly one appeal. A Session of above three months followed, before the adjournment in full; and, during that period, only 18 cases were heard, and 23 decided; the numbers heard in a much less period of time, the first year of the new arrangement, having been considerably more than double.

The result of the whole is an arrear at the present time of 225 appeals, and 24 writs of error. To dispose of these at the rate of the last seven years, would require seven years more, without hearing a single cause entered during those years. The Report states that it would take little more than five years; but this must be

upon the average rate of the last nine or ten years, including the time when exertions were really made after the passing the Vice-Chancellor's Bill. If the entries also keep the proportion of the last seven years, when the present arrear is disposed of, there will be a new arrear of above five hundred causes.

No more needs be said to show that some change is absolutely necessary; for this amounts to a complete denial of justice. But it is impossible to avoid reflecting, that all this pressure is complained of, and most justly complained of, within ten years after the creation of a new Court of Equity, and a new-modelling of the judicial proceedings in the House of Lords, for the express purpose of enabling their Lordships more effectually to despatch the business of the suitors.

We have said that some change is thus proved to be necessary; but whether a new machinery is required, or only a more diligent working of the old, remains to be shown; and this question can only be resolved by inquiring *why* the arrangement of 1812-13 has so completely failed.

From the statement already made, and which we have framed *entirely* upon the materials furnished by the Report, it appears, that about 80 causes in a year can be disposed of, and that no more than 70 new causes are annually entered. This fact alone shows, that if the House of Lords had laboured as diligently every year as they did in 1813 and 1814, the old arrear would soon have been got rid of, and not only no new arrear been created, but several weeks in each Session, perhaps a cause day in each week, might have been left unoccupied; for it is clear, that the number of appeals for mere delay would have been almost entirely cut off.

Again—Before the arrangement of 1813, the House sat upon appeals five days in the week, and three hours a day, subject to some interruptions. Three days a week, and six hours a day, uninterrupted, ought to despatch much more business; and yet the arrear, which had been unknown before the last twenty years, has gone on rapidly increasing with the increased powers of working. The truth is, that the relaxed method of proceeding had gained ground for some years before the change in 1813, and had occasioned the arrear then complained of. The hours of hearing were no longer peremptorily observed; days were frequently passed over; and, above all, the method of *hearing* now practised was introduced, which consists in the Court *reading* the appeal cases, apparently for the first time, while the counsel are engaged in arguing them at the Bar for the instruction of a Bishop, a lay Lord, and two clerks at the table. Supposing it to be true that the number of causes is increased,

the regular allotment of three whole days a week during the Session, should have enabled the House to dispose of much more business than Lords Mansfield, Thurlow, and Loughborough could get through during the two or three hours which they gave to appeals, after the business of their own Courts, and subject to frequent interruptions from the House of Commons. Seventy days, from ten till four o'clock each day, are quite enough to dispose of seventy causes; but then the Court must actually sit each of those days at ten, and continue sitting till four; and it must sit seventy days, and not forty-five or fifty. But suppose the seventy days of the ordinary Session insufficient, it should seem a very easy way of extending the period, to keep the House of Lords sitting a month longer. The object would, perhaps, justify such an inconvenience, for it is nothing less than preventing a failure of justice.

Much is generally said, and in some degree justly, of the prolixity of counsel in arguing cases before the House of Lords, particularly Scotch cases. This length of statement is partly inevitable, being incident to the mixture of law and fact, and of a law, too, which is not familiar either to the Court or the Bar. But it must be admitted, that causes occupy more time now than they did formerly; and this is no doubt partly owing to the Court being more passive, and interfering but rarely to stop a case, how desperate soever it may be. Let it, on the other hand, be remembered, that in a Court of the last resort, such an error is by far safer than the opposite one, of a hasty decision where there is no review. Perhaps, in such cases as apparently admit of no doubt, a single counsel might be heard on the side to which the Court inclined. A judicious communication from the Judge, of the points which he desires to be chiefly sifted, and a suggestion of those matters which he deems foreign to the question, would often save a very useless argument, and reduce the matter to its natural size. But this supposes that the Judge has had time to study the case before he comes into Court.

This leads us, then, to consider, why the Lord Chancellor could have less time now than formerly for the discharge of his judicial functions in the House of Lords. In the *first* place, it cannot be contended, that, since 1814, the business in the Court of Chancery has increased so as to prevent his despatching as many appeals and writs of error as he then did. But, *secondly*, and chiefly, let it be remembered, that a new Court of Chancery has been created since the days of Lord Thurlow and Lord Loughborough; and that, unless it can be proved that the Equity business has more than *doubled*, there is a total

failure of the argument drawn from its increase. We say, more than doubled; for the new arrangement in the House of Lords only makes the difference of one juridical day, or somewhat less, in the week, to the Chancellor's attendance in his own Court. Formerly he was obliged to rise at $\frac{1}{2}$ past one five days in the week; latterly, he was taken away three whole days; making a difference of five hours and a half each week, which might be almost reduced to nothing by his Lordship sitting till five, instead of four, the other three days. A hard life, it may be said:—True; but an easy one compared with that of counsel, who, besides the same hours in Court, far more irksomely occupied, have to pass the evening also in reading and consulting. But suppose the Chancellor merely to labour as much as he did before the change, we have to set one day against the erection of a new Court, where a Judge presides who has not one of the interruptions inseparable from the judicial life of him who is both a politician and a magistrate. It is evident that the balance is much more than equal to the whole power of despatching business formerly possessed by the Court of Chancery; and therefore, that that power was doubled by the new arrangements. Has the Equity business then been doubled, or any thing like it? No man will be so wild as to dream of such a thing. But unless it has been far more than doubled, the Chancellor has as much time as before; because, if it has only been doubled, the power of despatching it being more than doubled, the Chancellor, in point of time, is a gainer by the change.

This argument, we are aware, proceeds upon the supposition that the other parts of the machinery are as fit for performing their functions as they were before the change; that the Masters in Chancery are as competent to discharge the important duties of their office; and, above all, that the Master of the Rolls is as efficient a Judge as, taking one with another, usually filled that high station; for to expect a worthy successor to Sir W. Grant would be extremely unreasonable. If, indeed, the business has lately declined at the Rolls in the same proportion in which it has increased in the Vice-Chancellor's Court, our argument in so far fails; and the power of despatching Equity business will only have been augmented by the difference between what the Rolls could formerly despatch, and what can be despatched by the Vice-Chancellor, added to what the Rolls still may do—*minus* the day per week lost by the Chancellor. Even this, we should humbly think, would be found not inadequate to meet the actual increase of Equity business. But suppose it were otherwise, surely those who are responsible for the deficiencies at the Rolls, are not the persons to urge them in support of a second pro-

ject, grounded upon the failure of the first. It will be the more extraordinary to hear this argument used on the present occasion, because it must be in answer to the objection taken upon grounds somewhat personal to the Chancellor himself. The question is, whether the system be in fault, or only the individual who principally superintends its operations; and we are endeavouring, with all possible respect for his acknowledged great qualities, to show, that, by a more punctual and business-like method of proceeding, his Lordship might perform the duties of his high office as easily as very inferior men have done before him. In proof of this, and in answer to the objection that the business has increased, we state, that his Lordship has added to the number of his helpers. He surely has no right to reply, that having chosen to appoint an inefficient one, he derives no assistance from the addition; for the very question being, whether the system or the individual be to blame, this is only denying one personal charge by confessing another. And whether the Chancellor be to blame or not for the appointment, the suitor who suffers, and the country which pays, have no concern; to them it is equally bad. Courts enough are provided by the country to do the suitors' business,—enough for appeals, enough for equity; and the only answer the administrators of the system can give to a charge, that those means prove inadequate through certain imperfections in the Chancellor, is, that he is unable to overtake his business, owing to certain other imperfections in the Master of the Rolls! Can any man imagine, that, if the business formerly done at the Rolls were still despatched there, and the mass of business done by the Vice-Chancellor were added to what the Chancellor could perform, after allowing three days a week to the House of Lords, there would be any want of time to get through the additional Chancery suits since 1813? But unless this is asserted, the fault must be admitted to be in the men, and not in the system. Nor will fitter men ever be employed to administer its powers, if, as often as an unfit one is found impeding its operations, the remedy is to be a change in the system itself, by adding to parts already perhaps too numerous, making a Vice-Chancellor when one man failed in doing his business, and a Vice-Speaker when another proves insufficient.

We have been arguing upon the ground, that there are now three Equity Judges instead of two; that this increase is more than sufficient to meet any increase of Equity business; and that it should enable the Chancellor to overtake also the increase of appeals in the House of Lords. A still stronger light will be thrown upon the same positions, and all possible

objection removed, which may arise from accidental defects in one of the three Courts of Equity, if we advert to the arguments so unanswerably urged in 1813, against the creation of the new office. The statements then submitted to Parliament, especially by Sir S. Romilly and Mr Leach, appear to carry complete demonstration with them; they prove beyond a doubt, that a very slight alteration in the arrangement of Chancery business, as by withdrawing bankruptcy from the Chancellor, and relieving the Master of the Rolls from his attendance at the Cockpit (a burthen hardly in time of peace to be reckoned at all) the alleged increase of business might be provided for without difficulty.

The Lords Report of last Session states the increase of business in very vague terms; indeed in a manner somewhat calculated to excite suspicion, because, past all doubt, its tendency in the first instance is to mislead. 'The increased business of the Court of Chancery, in which the property of the suitors has, within the course of the last reign, risen from 4,700,000*l.* to above 33,000,000*l.*, has not only increased of necessity the number of appeals, but has also occupied so much larger a portion of the time and labour of the Lord Chancellor in his own Court, as to preclude him from bestowing an adequate degree of attendance for the decision of all the appeals which come from England, Scotland and Ireland, to the House of Lords.' p. 4. Does not this passage affect to measure the increase of business by the increase of suitors' property, and tend to make the reader believe that the augmentation has been sevenfold? Yet is there any man hardy enough to pretend that it has doubled? The same standard was appealed to in 1813; and yet Sir S. Romilly distinctly asserted, that, since 1750, the business of the Court properly so called had not increased. Bankruptcy, he admitted, had increased, and suits were heard at greater length, and invitations to rehearings were more frequent; but the suits were not more numerous. Indeed, he mentioned a very remarkable fact, to show the amount of the business in Lord Hardwicke's time. That great Judge, it seems, beside his morning sitting, sat twice a week in the evenings; and instead of closing his morning sittings on the other days at two o'clock, frequently extended them into the night. Mr Leach treated the supposition of the business having doubled since 1790, as too 'utterly extravagant to be entertained for a moment;' and added, that 'the supposition of its having increased one half, was, when compared with the fact, scarcely less extravagant.' (*Debate, Feb. 15, 1813.*) Nor was any person on the other side hardy

enough to assert propositions thus authoritatively negated by the two chief practitioners in the Court. These facts may well teach us caution in receiving such loose assertions respecting the augmentation of Equity business, as are contained in the Report.

Another important fact was also established upon the same occasion. It appeared, by the uncontroverted statement of Sir S. Romilly, that the Master of the Rolls, during Lord Eldon's time, heard twice as many causes as in the time of any of his predecessors. 'The duties,' it was said, 'of the Master of the Rolls had been greatly changed and multiplied in the time of the present Chancellor, a vast deal having been transferred from the latter to the former.' Mr Leach gave some important details of the business actually done at the Rolls while the Great Judge presided there, who has now retired full of years, but more full of honours. It appeared that he heard in a year 370 litigated causes, beside other matters equal to 60 causes more. The whole arrear then complained of in the Court of Chancery being 200,—of which, however, it seemed to be admitted that many were heavier than those heard at the Rolls.

But the most important consideration of all, is the comparatively small number of days that the Master of the Rolls sits, and the large proportion of those days that are merely fractional. Let us, following the clear and uncontradicted statement of Mr Leach, ascertain the number of days during which his Honour sits, and the number during which he might sit. Deducting the long vacation, the recesses at Christmas, Easter and Whitsuntide, and six holidays besides, there remain 200 days on each of which he might sit; on each of which the Chancellor sits, or is supposed to sit, either in his Court or at the House of Lords. But of these 200 the Master of the Rolls only sits 122; on the other 78, he either sits not at all, or at the Cockpit, where it is understood that, for above a year past, the present Master has not attended. Of these 122 there are only 20 on which he sits in the morning, and during six hours; the other 102 are evening sittings of four hours only. His whole juridical year, therefore, is only equal to 88 full days, at least in Equity. From this, two important inferences follow; *first*, That the quantity of business despatched by an efficient Master of the Rolls was not much less than the whole other equity business performed by the Chancellor in much more than double the time; *secondly*, That an efficient Master of the Rolls might do more equity business than has ever been done hitherto by that judge, in the proportion of more than

two to one; probably, from the tendency of longer sittings to abridge business, nearer three to one. We are supposing him indeed to give up the Cockpit; but, during peace, his attendance there is not absolutely necessary; it may be supplied by others; for there are very few sittings in the course of the year.

It thus appears, that if the Master of the Rolls were to sit in equity constantly during the juridical year, as the Vice-chancellor does, a provision would be made for very near twice as much business as exists even now in the Court of Chancery, supposing the Chancellor to leave his Court three times a week for the House of Lords. The arrangement of 1813 more than doubled the power of the Court to despatch business, independently of the Rolls; because, instead of one judge sitting about 24 hours in the week in Equity, it gave one judge, sitting 18 hours, and another 36 hours, during two-thirds of the juridical year, and during the other third when Parliament does not interfere, two judges sitting 36 hours in the week instead of one. The reader may easily calculate, that this increased the power of the Court in the proportion of about eleven to five. Add to this the proposed arrangement for nearly trebling the amount of business done at the Rolls; and we may assert, with perfect safety, that provision is made for nearer three times than twice as much business as was done, and done without ever leaving an arrear, in the times of the Chancellor's predecessors.

Instead of seeking then to render the Court more effective by new officers, it would be more fit to make some of the present officers effective, and diminish their number on the first vacancy. If the Vice-Chancellor's place, for instance, were abolished; Sir John Leach removed to the Rolls; and that Court made a daily one; and if the Lord Chancellor, in consideration of the increase in appeals to him, which might follow from the increased business at the Rolls, were to be relieved from the business in Bankruptcy, which, till the reign of George II., had hardly any existence in that Court, and is not an essential part of its duties, there would be abundant means for despatching the equity business of the country, although it should be allowed to have increased since 1800, in the proportion of three to two (a supposition wholly extravagant); while the appeal business in the Lords might be carried on by the same exertions which enabled the Chancellor, in 1813 and 1814, to try more causes than were entered during those years, in the proportion of three to two, and as many causes as the average entry for the seven last years. All that would further be necessary, would be to get rid of the present arrear; and this brings us to consider the remedy proposed by the Lords' Report.

The interest of this subject is very great for the whole country, but it touches Scotland in a peculiar manner. We have, therefore, been anxious to clear the ground in the first instance, and prepare the reader for the proof which we are confident we shall be able to give, that the plan proposed is not more inadequate to afford satisfaction to the suitor, than it is unnecessary in the existing circumstances, and objectionable in a constitutional point of view.

The Committee begin by admitting, that no plan can be adopted without many great inconveniences, and that they by no means propose the present one as free from considerable objections. Their Lordships then state, that although the measure must necessarily have something of novelty in its character, yet they trust it will only be of temporary duration, as it is to obviate a temporary difficulty.

Let it, with all deference, be observed, that this confidence is extremely ill founded, unless all the arguments are admitted to be just which have been urged, to show that the accumulation of arrears proceeds from the fault of individuals, and not from the system. Why should the arrear not begin to grow again, as soon as it is got rid of, according to the doctrine of those who maintain, that no man in the Chancellor's situation can prevent its increase; that the augmentation of business in Equity and in Error, is the sole cause of the difficulty complained of; and that the habits of the judges who preside in those courts have nothing to do with creating the mischief? The Report itself, fo. 4, adopts this view most distinctly. After adverting generally to the increase, and admitting that 'very considerable efforts have been of late made, to remedy the evil ' by the establishment of the Vice-chancellor's Court' (that is to say, by creating a court which sits more hours in the year than the Court of Chancery ever did, by one-third), it adds, that 'all these exertions have been found ineffectual, and there is ' now a manifest impossibility, that any person holding the ' Great Seal can find the time which is requisite for the business of the Court of Chancery, and the House of Lords, and ' for all the other great and arduous duties of his high office.' Now, we shall not stop here to inquire what those other great and arduous duties were, which Lord Hardwicke, and, even after the increase of Equity business, Lord Thurlow and Lord Loughborough contrived to perform, without the aid of bills and standing orders; but we must only remark, in passing, that if there be any foundation for the statement thus broadly made, of 'a manifest impossibility,' there can be no foundation whatever for the other statement, as confidently put forward in

fo. 14, that the difficulty which has been experienced in getting through the business is only temporary. For, we are very far indeed from conceiving it to be possible, that their Lordships, or any one else, could have had the event in their contemplation, a reference to which could alone reconcile the inconsistency of the two assertions, viz. a demise of the Great Seal.

The Report goes on to state, the general principle on which the new plan should be constructed. It ought, we are told, to accord as nearly as possible with established forms, and afford to the suitor, as nearly as possible, the same tribunal as that to which he considered himself to have brought his appeal, otherwise, says the Report, most fairly and sensibly, he may have just ground for complaint, that the expectation on which he appealed has been defeated. It is exactly by this principle that we are disposed, and for the reason given, to try the new project; but regarding, of course, its conformity to the *substance* of the old judicial arrangement which the suitor understood he was taking the benefit of, when 'he brought his appeal,' and not its accordance with those 'established forms,' about which he knew little, and cared nothing at all. Assuredly, if by some slight of hand dealing with the forms of the House, a new tribunal is erected, and he is told that it is 'as nearly as possible the same,' he may, without being very unreasonable, complain that 'his expectation has been defeated,' perhaps that he is laughed at into the bargain. Is it or is it not, then, a new tribunal which their Lordships propose giving him?

It must be confessed that the scheme is brought out with much preparation, and no ordinary portion of stage-effect. The suitor is skilfully thrown into a great agitation, by an alarming hint that his appeal might possibly be taken away altogether. 'The appeals, from all parts of the United kingdom, since their respective treaties of Union, have been to England; it seems therefore unadvisable to send their adjudication to any tribunal constituted elsewhere;' as if there could be a doubt of the right of appeal, or a possibility of sending the suitor any where else than to the British House of Lords. If then the appeals must be heard in the House of Lords, the first question is, Whether a Committee or the whole House shall hear them? But, as no decision of a committee is binding on the House, there seems an insuperable objection to hearing them there. It remains that they be heard in the House. Hitherto the steps have been many, and the way somewhat circuitous by which we have cautiously reached this point, and find ourselves so near where we set out. But all of a sudden a great stride is made; for no

sooner is it clearly ascertained that the appellate jurisdiction from all inferior courts must be exercised by the Supreme Court of Judicature itself, and not by an inferior one, and in England and not elsewhere, than 'it is submitted that a Speaker 'be appointed by Royal commission to preside, and allow the 'constant and regular attendance of the Lord Chancellor to be 'dispensed with.' This stride is made, we presume, in strict conformity to the principle of preserving to the suitor the tribunal before which he understood he had brought his appeal. That it may be as strictly in unison with the principle of preserving the established forms of the House, a remark is added, that it is highly expedient to give this new Judge leave 'to declare his opinion upon the case;' and not only his opinion, but, by a still greater stretch of liberality, he is to be permitted to declare 'the reasons upon which it is founded;' and all this he is to do, 'before the question is put as to what the judgment 'of the House shall be.' Fearful that they have proceeded to an extravagant length in unsealing the lips of their President, the Lords Committees are wonderfully relieved by finding, that, according to the present standing orders, the Judges and their councillors, called to attend by writ, 'may speak, if required and admitted so to do by the House.' Far be it from us to diminish the comfort which this disclosure is calculated to convey; nevertheless, candour requires us to remind their Lordships, that they must make up their minds to the alarming necessity of a new standing order, otherwise their truly venerable President (Speaker we can hardly term him until the order is made) will not be able to open his mouth upon any matter without putting a question each time to this effect, 'As many of your 'Lordships as are of opinion that I ought to be required to 'speak, if I have any thing to say, say Content—as many as think 'I ought to hold my peace, whether I have any thing to say or 'not, say Not content.' And even this question he will not be able to put, unless he gets some Lord to move it first. The case of the judges is by no means similar, for they are only wanted to give their opinions occasionally; and the Peer who presides can give his own remarks, and interpose to ask questions of counsel, or set them right, or direct their attention to any point, exactly like the presiding judge in any other court; the only difference being, that he or some other Peer must move a question when any order is to be made, or judgment given. But the wit of man never invented any thing more inconvenient, and indeed absurd, than a Speaker not a member of the House over which he presides. This arrangement is awkward enough in common parliamentary business, though he has only to sit and

put any question that is moved, and declare whether the Contents or the Not contents have it; but it is only awkward, and does little farther mischief than making a man look wholly useless, and somewhat ridiculous. But when this President is to sit in judgment, with counsel arguing before him, and to have no voice whatever in the decision, although all the arguments are addressed to him, the absurdities and inconveniences are innumerable, in whatever way his power of interfering may be settled. If he is not allowed to speak, or to interfere at all, his being there is quite absurd; for some Law Lord must attend, and be in fact the presiding judge. If he may speak only by express permission, or rather requisition, each time, then he cannot take part in the argument by interlocutory observations, because these must be made without any question put, or not made at all. If a general power of speaking and interposing *ad libitum* be conferred upon him, he becomes a Peer to all intents and purposes, except voting; and, not to mention the repugnance of this to every idea of order or consistency,—the gross absurdity, in a parliamentary view, of a person not belonging to the House, and not sitting within its precincts, * holding forth at his own discretion, when and how and as long as he pleases, what can be more ridiculous than that this most active partaker of the debate should be incapable of sharing at all in the decision; and that almost all the discussion should be carried on by, or addressed to, the only man in the assembly who cannot, in the least degree, influence the result? If, on the other hand, counsel discovering that they might as well address the bench he sits on, as the Speaker, apply themselves to the Peers, that is, two Lords in rotation, and a Bishop; how absurd must be the effect of one man trying to persuade three others, who are quite passive, while a fourth, whom he never dreams of convincing, and cares nothing about, any more than if he were fifty miles off, is perpetually interrupting the argument, and affecting to have some business with it! But that is not all; for those whom the advocate does address, and who alone are to decide, know nothing of the matter any more than the seats that bear them, and it is understood that they are only to follow the suggestions of the speaking but voteless President; so that they who decide are to have no share either in the argument, or in the comprehension of the case, and he who alone discusses and understands it, is to have no share in the decision! In a word, the President is to speak in his own person, to hear in his own per-

* It is well known that the Woolsock is not in the House; and, of course, he could only sit on that seat.

son, but to determine by proxy; the Peers are to hear and speak by proxy, and to determine as he directs them. The whole business of deciding causes in the last resort, the administration of justice in its highest stage, is to be in the hands, not of the Supreme Court of Judicature, but of one who does not belong to it, but in whose hands certain members of it are put to act, as his puppets, in rotation.

For this supply of members to perform successively this important and dignified office, the Report provides, by a detailed scheme of ballot. Instead of three, the present quorum, four are always to sit, and they are to be thus chosen. At the beginning of each Session, all who have taken their seats during the Parliament, exclusive of those who may be excused on account of age, permanent infirmity, sickness, absence from the realm, &c. are to be drawn, and the names set down as they come out by fours, each four to sit one day, and those thus appointed to attend under a penalty of fifty pounds, unless they can find substitutes. Fourteen days before the list is exhausted, the ballot is to recommence, and each Peer drawn is to have notice of being called on to serve. The Report proposes, without any peculiar regard to accuracy, that the days of attendance should be *five or six* in each week, from ten till four o'clock, 'the period of sitting to be *in every week* during the Session, *with the exception of those days over which the House may think proper to adjourn.*'

Now, let us for a moment calmly consider the nature of the Court of Justice thus constituted. We have hitherto assumed that the Speaker is not a member; but let it even be admitted that some law Lord of weight in the House, and whose opinion will be of authority in the country, is to preside as the Chancellor does, can any thing be more merciless towards the House of Lords than *the exposure* which this plan makes? The supposition has always been, undisturbed by any resolution of the House itself, whatever may have been the fact, that to *the Lords* generally the appeal lay; that *the House* heard and decided causes in the last resort; that some Lords had more weight indeed than others, from their superior learning and experience, and, from those qualifications, took a more active part in its judicial business; but still, that the Peers formed the Court of Review for all the realm. The Report of a Committee now proclaims, and the Lords have themselves adopted the Report by a resolution, that one person alone decides all causes, and that the others who attend are mere ciphers—with this addition, that the person deciding needs not belong to the House

at all. If, then, the four Lords are mere ciphers, why should they be required to attend?—why inflict upon the Peers in rotation so great an affront?—why give them so bootless a trouble?—why deliberately do that which can only tend to deception? And yet the only tolerable view of the subject is, that those four Peers are mere ciphers; for, if they are intended to be significant persons in the performance, absurdities ten thousand times greater crowd upon us. The cause is begun on Monday morning before the first four Lords drawn to serve; the counsel for the appellant are heard. On Tuesday come the counsel for the respondent, and, at the same time, come four other Peers, who have not heard one word of the other side: these hear the respondent's case. On Wednesday, the appellant replies to a third set of Peers, who have heard neither of the former arguments; and the Speaker proceeds to deliver his opinion to their Lordships. *He* has indeed heard the whole, but he exhausts the day in his elaborate judgment; and on Thursday morning come four fresh Lords who have neither heard the parties nor the Speaker,—and these are to decide upon the cause! Such may be the process if the cause is of a considerable length. In ordinary cases it *may* happen, that both sides should be heard and judgment given in one and the same day, and no other cause be called on; but the possibility of this will depend upon the counsel closing their arguments exactly at three or half past three o'clock; for if they finish at two, a second cause will be taken and cut in twain by the clock striking four; and if they only finish at that hour, the judgment must be given next day by four Lords who heard not a word of the cause. Does any man believe that such monstrous absurdities are committed with impunity in the face of the public? Is it conceivable that the high judicature of the country should continue honoured and respected after a formal declaration of its own incapacity?—or can it be imagined that the people are so dull as not to perceive the dilemma in which their Lordships have now put themselves—the choice between an entire abdication of their functions in favour of an officer who may or may not belong to their own number, and an admission that those functions are exercised in a manner too irrational to be described with common decency? Of a certainty, one or other of these things must be true, either that the attendance of the four Lords is a mere mockery, and utterly superfluous, or that they only interfere to do gross injustice as a matter of course. Out of this there is no imaginable escape; and it is rendered too plain, by the proceedings of the Com-

mittee and the House, not to be immediately understood by the whole community, if the resolutions come to be acted upon.

With respect to the Peers themselves, the objection is equally obvious. Can they submit to the combined mockery and drudgery of such an attendance, without reflecting upon the entire uselessness of their presence? Will none of their number feel disposed to take a part when compelled to attend? Has not each individual a manifest right to say, 'You bring me here by force to play the Judge, and I am resolved to do so in good earnest. What is that you say, Mr A, about being counsel for the plaintiff in error? As I am compelled to decide this cause on my oath, honour and conscience, I would fain understand what it is about? Be so good then as to let me know the meaning of Error.' A single lay Lord, of an average ignorance and curiosity, will probably keep the counsel first heard for the whole six hours, explaining as he goes along; and then an equally conscientious Peer, coming the day after, will begin with the next counsel; but as soon as he finds that one has been heard already, he must have him called back to go over his whole argument, explanations and all, otherwise he will be deciding without hearing. Suppose that a hint is then conveyed from the Woolsack, and their Lordships are given to understand, that they are not summoned for any such purpose as hearing and determining, may they not naturally enough ask wherefore they are there at all, and require a revision of the new order, with a view to enable causes to be heard by one Lord alone? For surely this would be no greater innovation than the arrangement of the new quorum, and the ballot, and the rotation, and the fine. In a word, if the public are sure to perceive the dilemma, that either the Peers compelled to attend are mere ciphers, or their attendance works the most gross injustice, the Peers themselves are equally sure to discover this other dilemma, that either their attendance might be dispensed with, or they have a right and a duty to interfere with, and, which is the same thing, stop the proceedings of the House, by making themselves acquainted with the matters they are required to decide upon.

But we must now turn to another, and, if that be possible, a more fatal defect in the plan proposed by the Committee. A Speaker is to be 'appointed by Royal commission to preside in the House;' and this in fact is the great object of the new arrangement. Hitherto our argument has proceeded upon the supposition, that the Speaker himself was unexceptionable, and that the whole difficulty consisted in his want of jurisdiction from not being a member of the House or that he was

a member of the House, and that the objection was to the constitution of the House, by Peers serving in rotation. We are now to inquire into the possibility of satisfactorily carrying on the appellate jurisdiction, with a Speaker appointed as the Report proposes, supposing all other difficulties got over; that is to say, admitting, for the sake of the argument, first, that there is no obstacle in his not being a member of the House; and, secondly, that there is no absurdity or inconvenience in constituting the House of four Peers serving by rotation. We venture to assert, that after those very large admissions, by far the greatest objection of all remains to this scheme.

It is manifest, that the authority of the decisions in the House of Lords must depend upon the general confidence reposed in the Peer who presides and takes the leading part in its judicial business. Hitherto, that place has been filled by the first lawyer in the country. He has always been the person at the head of the profession, almost always the Lord High Chancellor; and if not, some great Judge like Lord Mansfield, whose name was venerable throughout the whole profession of the law, and throughout the country at large, from acknowledged talents, high and judicial station, and long experience. There have no doubt been persons who held the Great Seal, and yet were men of inferior, rather let us say, men of not the first qualifications, or the very highest name in the profession. Still their station was a pledge for great and undeniable eminence; and in those days, with perhaps a single exception since the Revolution, no one was ever appointed to hold the Great Seal, whom all voices would not at once proclaim to be a very first-rate man. The respect, therefore, in which that great office is held, has become habitual both with the profession and the country. His name is venerable, his authority commanding in every branch of the law. It is because of the honour in which he is generally held elsewhere, that he can securely rely upon respect when he comes to the House of Lords, and hears and substantially determines causes as Speaker. Were he unknown beyond the precincts of the House; were he taken up and made a President at once; even were he at the same moment made a Peer of, he would carry to the Woolsack no respect at all, and his decisions would pass current at little more than the value of their intrinsic justice. Now, every one must admit, that where the question is, whether one party or the other is in the right, it is of great importance to have a Judge, the weight of whose authority adds force to the reasons on which his decision is founded; but how much more important is it that a Judge of Appeal should

be possessed of such authority, with the suitor, and the profession, and the public, when it is considered that the question before him is not only which of the parties is in the right, but whether or not the tribunal that tried the cause is in the wrong! And how incalculable does the importance of authority become in the case of him, who is the ruling member of a judicature, which is set over *all* the other tribunals in the country; the personage who in fact comes forward, on every occasion, to tell all other judges whether they have been in the right or in wrong; to criticise their whole conduct, to direct them as to their proceedings; to control and to guide them as a superior intelligence may be supposed to regulate inferior natures, placed at his disposal!

But it must not be supposed, that, when we speak of the importance of authority, and ascribe the Chancellor's to his high station, we are dwelling merely upon a groundless and imaginary prepossession. It is because, as the law is at present administered, the first or nearly the first among its members is sure to hold the Great Seal, that a general opinion is found to prevail in favour of his qualifications. If, in the system, any change were made, by which it would become possible to place inferior men in the station, the public confidence would speedily be estranged from the Chancellor; but while it is impracticable to abuse this, the highest patronage of the Crown, that is, while there are most important difficult duties annexed to the office, the holder must both obtain and merit a high degree of respect. Every thing, indeed, conspires to produce this under the old arrangement. He is the more looked up to in Westminster Hall, because he presides in the House of Lords; and, without this exalted station, he would still be regarded as the first Equity Judge, and his decisions would obtain due respect, from the knowledge that he was the first, or among the first Equity lawyers of his day. But if he is unknown in any court, and taken only to preside in the Lords, no man can say how he is to be estimated; there is no standard to try him by—no one to compare him with; he is only known by his office, and that a new one, new at least in its separate state. He is an Appeal Judge; but who can tell what qualities that implies? It means every thing, or any thing, or nothing; he ought indeed to know all law and all Equity; but where has he shown his accomplishments? Where does he exhibit them in the manner in which alone they can be brought to the test, before a regular Bar, jealously watchful, and all generally acquainted with the subject, as well as those immediately engaged in the cause? Examples may indeed

be given of great Judges who had few occasions of showing their talents at the Bar; not numerous examples, let us add, and somewhat equivocal with a view to the present question; for they will merely be found to be cases of lawyers known as such to the profession, and who had only been little known in a kind of practice fitter to make skilful advocates than eminent judges. But at all events, when raised to the Bench, they were exposed to perpetual conflict with the most regular-bred lawyers of their time, and to constant superintendence from the whole of the profession. Had they been unfit, their failure would have been instant and signal, and it would have been also notorious. The community knew that it must be so, and therefore gave them credit for qualifications so necessary to their judicial existence, before their great merit had time to justify this confidence, or rather to surpass all expectations. But, suppose the same men had been placed in a new-fangled Court of Appeal; first, their brethren in the profession, who alone knew any thing about them, would have regarded their elevation as only removing them out of sight, and might have spoken of them as men fit for more trying situations; then the publick would have understood at the utmost, that they were men who, had they been regularly tried, might not have been found wanting; next, they themselves would have been placed in a court without a Bar, which would have prevented them from attaining the judicial excellence they were capable of; lastly, the same want of a Bar would have prevented them from gaining the publick confidence in any eminent degree, because all their decisions would have been pronounced without the wholesome superintendence of the profession. We need hardly remind the reader, that appeals are heard and decided in the presence of the parties, no council attending but those engaged in the particular cause.

The greater part of the appeal business comes from Scotland. Of 447 causes heard from 1813 to 1823, there were 282 Scotch; but as writs of error occupy much less time, let us deduct those; and we shall find that of 371 appeals heard, 279 were Scotch; and as those took by far more time in proportion than English and Irish appeals, we may calculate that, instead of three days in four, perhaps five in six were occupied in Scotch cases. What, then, is the precise reputation in the profession of a great Appeal Judge? It is not certainly that of a great Scotch lawyer, because he takes his law from the cases and the arguments at the Bar, in a very great measure,—and more as matter of fact than of law. But, to decide these causes well, he must be a great lawyer and a great Judge; that is, he must

have great judicial talents, exercised in some Court where the law is familiar to him and his hearers; and this he cannot by possibility become, if he spends five parts in six of his juridical year in discussions which must always be strange to him, without any hearers, learned or ignorant,—and the remaining portion in hearing about seven points of English law and about nine Equity cases, without any other practice in judging either upon Equity or Law. Supposing him to be ever so well qualified when he began, such a judicial life would very soon both make him unfit, and make his unfitness apparent. An appeal Judge would be a kind of nondescript jurisconsult, claiming any thing rather than respect, and of qualifications not the more magnificent for being obscure.

The great proportion of time consumed in hearing Scotch appeals, gives rise to another observation. It becomes of primary importance that the courts, the profession, and the suitors in Scotland, should be satisfied. Now, we venture confidently to state, that the proposed arrangement will prove most unsatisfactory in all these quarters. When it is considered that, from the necessity of the case, and in a choice of difficulties, the decisions of our most learned lawyers must be reviewed by one who cannot pretend to be other than a stranger to our laws, surely to command respect, that Supreme Judge ought to be amply clothed with all other legal qualifications. We have cheerfully submitted to the control of the person pointed out by common consent as the first lawyer of his day; and although it may be difficult to find a successor worthy to fill his place as a lawyer, yet, while the Court of Chancery remains upon its present footing, we have always a security that he must be among the greatest legal authorities at the English Bar. This, of itself, is a pledge that he will bring to the discussion of Scotch law questions, a mind stored with legal principles, a thoroughly legal understanding, and great general talents. It is likewise a certainty that he is well versed in those matters which are common to the jurisprudence of both countries. To suppose that a man of even considerable abilities and industry, will command the confidence of this country, which only can know him as one taken up for the purpose of being set on the Woolpack to hear Scotch appeals, seems in the highest degree preposterous.

But probably he will, on this very account, fail in another and most essential particular; he is likely to want confidence in himself. Aware that he cannot command the respect of the Courts below, he may possibly lean too much towards their views; and if this feeling should not always influence his deci-

sions, it is very likely to moderate his tone, and make him by no means that plain expositor of failings and of faults which we fear every provincial court is the better for having in the tribunal of the last resort. An appeal to some judge wholly unconnected with the country, is, on all hands, admitted to be necessary, in order to secure not merely the reality of an entirely impartial decision, but, what is next to the reality in point of importance, the universal conviction of it among the suitors. That impartiality cannot be complete, nor the conviction of it either general or strong, if there is any distrust of his own authority in the Supreme Judge, any tendency to consult the sense of the Courts below, or any backwardness to give offence to them when their proceedings require exposure or reproof. The Court of Appeal, in this case, may be locally situated out of the country; but it will be within the sphere of prejudice and of influence; and it will get credit for being perhaps a good deal more subject to such disturbing forces than it really is. In truth, this consideration is of itself quite a sufficient objection to any Judge sitting as a Judge in the appellate jurisdiction only. He will always lean too much towards the Courts below. An entire confidence in himself can only be derived from his having another judicial existence beside his appellate functions; another professional reputation beside his character as superintendent; some *fulcrum* beyond the tribunal itself, from whence he may control the Courts below. He never can be sufficiently independent of those Courts, unless his name is wholly beyond being affected by their censure. What signifies it to the Lord Chancellor of England, that the Chancery of Ireland, or the Court of Session in Scotland, should murmur at his proceedings in the House of Lords? But it will signify a great deal to a person who has no judicial weight to support him, other than he may acquire by hearing Scotch appeals—who has no general reputation in the profession to fall back upon, when his talents or knowledge in our business are questioned; and, as such feelings are uniformly found to be reciprocal, the less we perceive that he trusts to himself, the more will our deference towards him wear away, while his diffidence will certainly be increased, by finding that he fails to command our observance.

It is evident that the objections which we have been urging, both on general grounds, and more especially with a view to Scotch causes, apply most strongly to the project of appointing a Speaker, who shall have no other judicial employment than presiding in the House of Lords. But many of these objections are applicable to the plan of separating the Speakership

from the Great Seal in any way, and placing at the head of the appellate jurisdiction any Judge except the Chancellor. Suppose, for example, that the Master of the Rolls were named for the office, and to overcome the difficulties above stated of his not being a member, suppose him created a Peer, no doubt we may imagine some extraordinary man filling that office, who, having long given it dignity and preeminence by his own high reputation, would give entire satisfaction in the House of Lords. But the judicial system of a country should not be framed upon the calculation of extraordinary accidents happening to correct the natural tendency of bad contrivances. We must adapt our plans to the ordinary course of things, and the common run of men; and in that view, the person at the head of the Court of Chancery must generally be a much more weighty and efficient member of the profession than the Master of the Rolls. The confidence of the country, and, above all, the respect of the Courts throughout the country, will not easily be gained for a tribunal in which the second Judge in the country sits instead of the first; and we are making a large allowance for the effects of the Peerage and Speakership, in admitting the Master of the Rolls to be thereby made the second. Observe, too, the great absurdity of appealing from the Chancellor to his subordinate and assistant. In the Court below, the appeal lies from the Rolls to the Chancellor; and the plan proposed would take the cause in fact back again to the Court below, under the name of carrying it to the Court above. It is, besides, a diminution to the dignity of the Chancellor's office, which would be of no service either to the profession or the suitor. If the Speaker obtained a sufficient weight, he would be a rival Chancellor; and the probability is, that one or other would, in a short time, become a mere politician, and leave the whole of his judicial functions to the other, with the help of the Vice-Chancellor. That any other presiding Judge than the Master of the Rolls should ever be thought of for the office in question, seems strange, because he is the only one whose mornings are not fully occupied. To take away a Chief Judge from any other Court, would be an admission that the presidency of such Court is a sinecure.

But if the Master of the Rolls can be spared for such a situation, why may not the other plan to which we have already adverted be adopted? Why not have that Judge to sit the whole juridical year, and relieve the Chancellor for a year or two of part of his duties in his own Court, so that he may give more time to Appeals in the House of Lords? The Lords' Committee may rest assured that no other method of deciding in the last resort will be satisfactory; the parties will not, and they ought not, to be content with less than

the highest legal authority in the country to review the decisions of the best Judges in the inferior courts.

We close these remarks, by taking notice of two objections upon constitutional grounds. The first, to the manner in which the Committee propose that the change should be effected; the next, to the change itself. It is to be made by a mere vote of the House of Lords, and some alteration in their standing orders. Surely it is most fit that so great an innovation in the juridical system of the country should be sanctioned by the concurrent voice of both branches of the Legislature, and after the scrutiny to which Bills are subjected. To accomplish such a change by a vote of some half dozen peers, holding twice as many proxies, hardly betokens a becoming tenderness for the weighty interests involved in the question, or even that respect for the wisdom of our ancestors, of which we find those ever the most apt to speak who are least disposed to let it stand in the way of innovations useful or agreeable to themselves.

To the change itself there is this further objection; that it adds one to the means of influencing judges by promotion, if the Speakership is to be conferred upon a person holding another judicial station. This topic opens a larger field of remark than we can at present enter upon. Certainly there is nothing more inconsistent with the independence of the Bench than the promotion of judges, or so hostile to the whole spirit of those laws passed at the Revolution and the late King's accession, upon which we so much value ourselves. *

* Nothing, however, can be more absurd than the language frequently used upon the change introduced at the late King's accession. It was an improvement, no doubt, and a considerable one; but its importance was, for the greater part of the last reign, (indeed ever since his late Majesty's, from being most unpopular, became highly popular), the subject of ridiculous exaggeration. The common panegyrick was, that he had established the independence of the Judges; and this was so often repeated by venal or ignorant eulogists, that an opinion very generally prevailed, that, before his reign, judges were removable at pleasure; whereas the law which made them irremovable, *except upon the demise of the Crown*, was that very statute which called his Majesty's family to the throne; being the 12th and 13th of Will. 3d cap. 2—better known by the name of the Act of Settlement. He indeed recommended to Parliament the further improvement of continuing the judges, notwithstanding the demise of the Crown; and for this he was praised as if he had done something very noble and disinterested—whereas, in truth, the former law in nowise made judges *more dependant on the reigning monarch*, but

It has been carried farther, of late years, than formerly; and in both parts of the kingdom. Measures should really be adopted to check it altogether, instead of extending it, otherwise the independence of the Bench may become but a name. No man can pretend that fear of removal is the only motive by which a judge may be swayed; it is the worst, no doubt, and its operation is the most constant; yet in these times, with a free press and the perpetual vigilance of a powerful body of men in Parliament, no minister would venture upon the frequent exertion of such a power. The stimulus of hope, on the other hand, is easily applied; for promotion may safely be given, as long as the law allows it. A minister has only to take care that he does not reward any very open and shameless acts of corrupt subserviency, and he may maintain a perfect understanding with judges who, to their baseness, add discretion. In England, the system of promotion is far less complete than with us; who have actually three several stages of preferment through which judges pass, by *pluralities*, beside the promotion from *puise* to chief, which we have in common with our Southern neighbours. The union of Speakership in the House of Lords with a judge's place, introduces a plurality into the English judicial system, from which it was before free—and this change will, of course, be more pernicious, if the Speakership is understood as capable of being annexed to the office of a common law judge, than if that function is confined entirely to the Equity judges. Indeed, the objection which we are now stating would be at an end, if the annexation was confined by law to one judicial *place* alone, whether legal or equitable.

only induced them, perhaps at his expense, to pay their court to his successor—and the new law, which was certainly much better, made them equally independent of both. It is strange to observe Mr J. Blackstone, who states the two acts correctly enough in the first book of his Commentaries, giving countenance to the vulgar error in the fourth—by omitting all mention of the statute of William III. in his enumeration of the constitutional improvements since 1688, and citing the act Geo. III. as the only law within that period 'making the judges independent of the King, his ministers, and his successors'—which is moreover a great mis-statement of the scope of the act itself. (See 1. Com. 267 and 4 Com. 440.)

ART. VIII. *Observations on the Trade with China.*
London, 1822.

THERE is nobody who has not heard of the proceedings of the Dutch East India Company—who had no sooner obtained a monopoly of the trade in spices, than they set about burning them in large quantities, rather than bring such an increased supply to market, as would have caused them to sell at a reasonable price. Such a thing could not perhaps be done, or at least avowed, among us: But the spirit which actuates such exclusive associations, is the same in them all: And certainly we are much mistaken, if the statements we are now about to lay before our readers do not satisfy them, that our own Honourable Company requires a little looking after; and do not prove indeed, beyond all question, that the lordly grocers of Leadenhall Street have most scandalously abused the monopoly of which they are in possession, and discovered a degree of rapacity nowise inferior to that of their Dutch archetypes.

There is no imaginable reason, were the trade with China placed on the same footing in England, as in the Continent and the United States, why the price of tea should not be as *low* in London and Liverpool, as in Hamburgh and New York. It may indeed be fairly presumed, that it would be a good deal lower; for, as many species of our manufactured goods are well adapted to the taste of the Chinese, and are willingly accepted in exchange for the teas purchased by us in their markets, we can maintain a direct intercourse with them; while, as neither the French nor any other European nation, nor the citizens of the United States, have such goods to carry to China, they are necessarily obliged to pay the greater portion of their teas in bullion, which they must have previously purchased from the South-Americans or Mexicans. Some of the best informed merchants are, accordingly, of opinion, that in the event of the East India Company's monopoly being abolished, teas of equal goodness would be 15 or 20 per cent. cheaper here than in either America or the Continent. And we may mention, in corroboration of this opinion, that Mr Crawford, the intelligent author of the valuable work on the Eastern Archipelago, and who, from the official stations which he filled in India, had the best means of acquiring correct information, estimated in his evidence before the Committee of the House of Lords, on the Foreign Trade of the country, that if the trade were open, the freight of tea

carried from Canton to Europe in British ships, as compared with its freight in American ships, would be about as *ten to twelve*. * There are good grounds too for thinking that this estimate is very nearly correct. Having manufactures to export, our vessels can carry an *outward* as well as a homeward cargo: But the American and Continental traders, who have nothing but bullion to export, must either send their ships in ballast to China, in which case the whole expense of both voyages would fall on the return cargo, or they must send them in the first place to England, to get them loaded with English goods suitable to the Chinese markets. And such, in fact, is the circuitous route by which no inconsiderable proportion of the British goods disposed of in the 'Celestial Empire' are conveyed thither; † though it must be quite obvious, that, if the trade were free, our manufacturers would themselves export their products to China, as they do to all other countries, on much cheaper and more advantageous terms than they could be exported by any one else. But without insisting farther on the fact of its being possible, were there no monopoly, for British merchants to supply the people of this country with teas, at a *lower* rate than the merchants of the Continent or of the United States can supply their customers, we shall content ourselves with assuming that they could supply them *as cheap*; and shall proceed to try the merits of the East India Company's monopoly by this test. If the Company have conducted their trade as it would have been conducted by individual merchants, *their teas ought at all events to be as low-priced as those that are imported into New York and Hamburgh; and if they are higher priced, the excess, whatever it may be, must be entirely owing to the monopoly, or to its abuse.*

We have now in our possession an *official* account commencing with the first sale in 1820, and ending with the second sale in 1823, containing a statement of the various descriptions of tea sold by the East India Company at their quarterly sales, the prices at which the teas were put up, the prices at which they were actually sold, the total quantities sold, and the

* Lords' Report, 11th April, 1821, p. 21.

† See the evidence of Mr Goddard, Mr Rickards and others, in the Lords' Report: And in a letter from the Company's Factory at Canton, dated the 20th November 1820, and printed in the Commons' Report of 18th July 1821, it is stated, that 'between 3000' and 4000 pieces of broad-cloth have been imported during the present season, under the American flag, direct from England; a circumstance which, they add, 'inflicts a death-blow on the monopoly hitherto enjoyed by the Honourable Company.'

quantities refused by the dealers, at the Company's upset prices. With the exception of bohea, the sale price of which has varied from 1s. 11 $\frac{1}{10}$ d. to 2s. 6 $\frac{1}{10}$ d., extremely little fluctuation has taken place in the price of the other descriptions of tea. We subjoin from the official account in question, a statement of the prices and quantities of the teas sold at the first March sale for 1823; which prices we are informed do not perceptibly differ from the prices of the same sorts of tea at the three subsequent sales in the past year.

First Sale of Teas by the East India Company in March 1823.

Description of Tea.	Putting up Price.	Average sale Price.	Quantities sold.	Quantities refused.
Bohea	1s. 6d. p. lb.	2s. 5 $\frac{1}{10}$ d. p. lb.	451,118 lb.	
Congou	2s. 2d.	2s. 6 $\frac{1}{10}$ d.	1,675,872	
Do.	2s. 4d.	2s. 7 $\frac{1}{10}$ d.	3,330,673	
Campoi	2s. 9d.	3s. 5 $\frac{1}{10}$ d.	166,207	
Souchong	3s.	4s. 4 $\frac{1}{10}$ d.	31,940	
Twankay	2s. 5d.	3s. 4 $\frac{1}{10}$ d.	1,159,522	
Hyson-skin	2s. 6d.	3s. 3 $\frac{1}{10}$ d.	60,216	
Hyson	3s. and 4s.	4s. 5 $\frac{1}{10}$ d.	221,935	77,153

Quantities of Company's Tea sold - 7,077,483
Do. of private trade - 606

Total quantities sold - 7,078,089

Now, it appears from the New-York Price Currents, that the prices of tea in that city in dollars and cents, inclusive of duty, and in cents and Sterling money exclusive of duty, were, in 1823, as follows.

SPECIES OF TEA.	Hyson.	Young Hyson.	Hyson Skin.	Souchong.	Congou.	Bohea.
DUTY.	40 cents. per lib.	40 cents. per lib.	28 cents. per lib.	25 cents. per lib.	25 cents. per lib.	12 cents. per lib.
1823. Price of Tea per Price Current, published January 10th, duty included	87 to 1.10	85 to 95	52 to 58	56 to 60	40 to	32 to 34
Do. March 21st	87 - 1.10	85 - 95	54 - 60	53 - 56	40 -	32 - 34
Do. July 11th	90 - 1.10	90 - 1.6	54 - 60	50 - 54	40 -	25 - 28
Do. September 26th	90 - 1.6	95 - 1.6	55 - 75	54 - 60	40 -	25 - 28
Do. November 29th	1 - 1.6	1.5 - 1.10	70 - 78	50 - 65	no quotation	26 - 28
Average price of 1823, duty deducted in cents.	59	57	34	51	15	17
Do. in Sterling money exchange, at 4s. 3d. per dollar	2s. 6d.	2s. 5d.	1s. 5 $\frac{1}{2}$ d.	1s. 5 $\frac{1}{2}$ d.	7 $\frac{1}{2}$ d.	3 $\frac{1}{2}$ d.

With respect to the prices of tea on the Continent, we have obtained a series of *Hamburgh Price Currents* for the last two years; and, taking that which is published nearest to the middle of each year, and reducing the *Hamburgh* to *English* money, we get the following as the average prices.

Prices of Tea at Hamburgh; the nett proceeds in English Money, all charges deducted except Freight and Insurance.

	1823.		1822.
Bohea	9 $\frac{1}{2}$ d. to 10 $\frac{1}{2}$ d.	Bohea	7 $\frac{1}{2}$ d. to 8 $\frac{1}{2}$ d.
Congou	1s. - 1s. 2d.	Congou	11 $\frac{1}{2}$ d. - 1s. 1d.
Souchong	1s. - 1s. 4d.	Souchong	11 $\frac{1}{2}$ d. - 1s. 5 $\frac{1}{2}$ d.
Hyson	2s. 2d. - 2s. 11d.	Hyson	1s. 9d. - 2s. 3d.
Pekoe	2s. 9d. - 4s. 4d.	Pekoe	3s. - 4s.

We subjoin an account of the price of the various descriptions of tea at *Hamburgh*, as given in the *Price Current* of *Anderson, Hober & Co.* of that city, for the 26th September last; together with an account of the prices of the same descriptions of tea as put up at the *last* September sale by the *East India Company*; and the prices at which such teas are now currently selling in *London*, *exclusive* of duty.

	<i>Hamburgh Current Price.</i>	<i>London putting up Price.</i>	<i>London Current Price.</i>
Bohea	9 $\frac{1}{2}$ d. to 10 $\frac{1}{2}$ d. per lib.	1s. 6d. per lib.	2s. 4 $\frac{1}{2}$ d. to 2s. 5d. per lib.
Congou	1s. 1d. to 1s. 5d.	2s. 2d. to 2s. 4d.	2s. 7d. to 3s. 9d.
Campoi	10 $\frac{1}{2}$ d. to 1 $\frac{1}{2}$ d.	2s. 9d.	3s. 3d. to 3s. 10d.
Souchong	1s. 1d. to 1s. 11 $\frac{1}{2}$ d.	3s.	3s. 9d. to 4s. 10d.
Pekoe	2s. 5d. to 4s. 11d.	—	—
Twankay	1s. 5d. to 1s. 7d.	2s. 5d.	3s. 5d. to 3s. 8d.
Hyson-skin	1s. 5 $\frac{1}{2}$ d. to 1s. 7d.	2s. 6d.	3s. 5d. to 3s. 10d.
Hyson	2s. 4 $\frac{1}{2}$ d. to 3s. 6 $\frac{1}{2}$ d.	3s. to 4s.	3s. 8d. to 6s.
Gunpowder	4s. to 4s. 7d.	4s.	5s. 3d. to 6s.

Hamburgh, and most of the other great Continental ports, derive a considerable portion of their supplies of tea indirectly from *New-York*. *Exclusive* of *London*, *New-York* is the greatest tea-market out of *China*; and its prices, as compared with the prices of the teas sold by the *Company*, will afford the best standard whereby to measure the effect of the *Company's* monopoly on price. We shall, therefore, bring the current prices at *New York* and *Hamburgh*, and the price at which the teas were sold to the dealers by the *Company*, at their first *March* sale in 1823, into one point of view.

	New York Prices in 1823.	Hamburg Prices in 1823.	Selling Prices at Compa- ny's 1st Sale in 1823.
Bohea	8½d.	9½d. to 10½d.	2s. 5½d.
Congou	7½d.	1s. - 1s. 2d.	2s. 6½d. to 2s. 7½d.
Campoi	—	10½d. - 1½d.	3s. 5½d.
Souchong	1s. 3½d.	1s. - 1s. 4d.	4s. 4½d.
Twankay	—	1s. 5d. - 1s. 7d.	3s. 4½d.
Hyson-skin	1s. 5½d.	1s. 5½d. - 1s. 7d.	3s. 3½d.
Hyson	2s. 6d.	2s. 2d. - 2s. 4d.	4s. 5½d.

	Excess of E. I. Company's Prices over those of New York.	Excess of E. I. Company's Prices over those of Hamburg.
Bohea	1s. 8½d.	1s. 7½d.
Congou	1s. 11½d.	1s. 6d.
Campoi	—	2s. 5½d.
Souchong	3s. 1d.	3s. 2½d.
Twankay	—	1s. 10½d.
Hyson-skin	1s. 10½d.	1s. 9½d.
Hyson	1s. 11½d.	2s. 2½d.

Now, it is evident that, by multiplying the quantities of the various descriptions of tea disposed of annually at the Company's sales, by the *excess of price* at which they are sold over the price of similar teas at New York or Hamburg, we shall get the nett sum which the people of this country are compelled to pay for the teas used by them, over and above what would purchase an equal supply were the trade thrown open. The Company have furnished the means of making this computation; for, it appears from the statements in their annual accounts, that the sales of Bohea, in 1822, amounted to 2,419,045 lbs., which, being sold at an advance of 1s. 8d. per lib. (throwing away the fraction) over the price of Bohea at New York, cost 206,587*l.* more than it would have done, but for the monopoly. A similar computation being made with the other descriptions of tea, the account will stand as under,

	Quantities of Tea Sold at Company's Sales in 1822. lbs.	Excess of Company's Price per lib. over Price at N. Y. or H.	Total Excess of Price received by the Company.
Bohea	2,419,045	1s. 8d. N. Y.	L. 206,587
Congou	18,569,472	1s. 6d. H.	1,892,710
Campoi	196,729	2s. 5d. H.	23,871
Souchong	115,738	3s. N. Y.	17,860
Twankay	4,086,445	1s. 10d. H.	368,907
Hyson-skin	180,420	1s. 9d. H.	11,411
Hyson	396,697	2s. N. Y. & H.	89,469
	<u>25,874,546</u>		<u>L. 2,058,815</u>

This quantity is, however, exclusive of 2,019,019 lbs. sold at the same sales on account of the Captains and other officers of the Company's ships. The sorts of tea belonging to the officers are not specified; but, supposing them to have been mixed up in the same proportions as those belonging to the Company, the excess of price on them will be about 160,000*l.*; making, in all, an excess of 2,218,000*l.*

These results are of the utmost importance. They are deduced from documents whose accuracy cannot be disputed. And it appears from them, that the monopolists of Leadenhall street *obtained 2,218,000*l.* more for the teas sold by them in Britain in 1822, than would have sufficed to purchase an equal supply had the trade been free!* Inasmuch, too, as very little variation has taken place, during the last three years, in the prices of tea at Hamburgh and New York, and as neither the prices nor the quantity of the teas sold at the Company's sales in 1822 perceptibly differ from the prices and quantities of those sold in 1821 and 1823, it clearly follows, that the monopoly of the tea trade enjoyed by the East India Company costs the people of this country, on an average, not less than TWO MILLIONS TWO HUNDRED THOUSAND pounds Sterling a year!

We do not hesitate to affirm, that this is among the most scandalous impositions to which any nation was ever subjected. Tea has become one of the principal necessities of life: and yet our rulers generously give to a Company of private individuals the power of monopolising this commodity, and of selling it at more than 200 per cent. above what it ought to sell for! John Bull is the most inconsistent of animals: He has sent scores of petitions to the House of Commons praying for the repeal of the additional duty of 1½*d.* per lib. on leather imposed in 1812—a duty so small as to be almost imperceptible; while he has never troubled himself in the least about the repeal of the tax varying from 1*s.* 6*d.* to 3*s.* per lib. laid by the East India Company on tea, and appropriated by them to their own private purposes! This is a subject with respect to which the most loquacious of our patriots have chosen to emulate the dignified silence of the Company's chairman. It is now, however, before the public. The tea-dealers of Edinburgh have already petitioned the Lords of the Treasury to interpose to restrain the rapacity of the Company; and we trust that this example will be followed by the tea-dealers and inhabitants of every other considerable town in the empire. If the public do not exert themselves to procure relief from so scandalous an imposition,

with what face can they solicit the repeal of taxes levied for national objects? So long as they quietly submit to have their pockets picked by monopolists, they certainly deserve no favour from the tax-gatherer!

It may perhaps be said, that the Company are in legal possession of the monopoly of the tea trade, and that they, therefore, have an undoubted right to exercise it as they please! In point of fact, however, this is not the case. The Company's monopoly is only *conditional*, not absolute; and they have so broken through all the stipulations on which they hold it, as to render the immediate interference of Government imperatively necessary. Repeated acts of Parliament have been passed to prevent the Company charging exorbitant prices for their tea, and in the laudable view of securing to the people of Britain an ample supply of so necessary an article nearly on the same terms as it costs their Continental neighbours. Thus, it is statuted and ordained by an act passed in 1745 (18. Geo. II. cap. 26.), that in case the tea imported by the East India Company, shall not always be sufficient to answer the consumption thereof in Great Britain, and to keep the price of tea in this country upon an EQUALITY WITH THE PRICE THEREOF IN THE NEIGHBOURING CONTINENT OF EUROPE, it shall be lawful for the said Company, and their successors, to import into Great Britain such quantities of tea as they shall think necessary from any port of Europe: And by another section of the same statute, it is enacted, That if the East India Company shall, at any time, neglect to keep the British market supplied with a sufficient quantity of tea at reasonable prices, it shall be lawful for the Lords of the Treasury to grant licenses to any other person or persons, body politic or corporate, to import tea into Great Britain from any part of Europe. This statute is clear, explicit, and decisive; and we cannot help being astonished, as well at the boldness with which our Eastern Pachas have acted in the teeth of its most solemn and obvious enactments, as at the little attention paid by Government and the country to their proceedings.

But this is not all. It is enacted in the famous Commutation Act, passed in 1784, (24. Geo. III. cap. 38.), That the East India Company shall make four sales of tea every year, as near as conveniently may be at equal distances of time from each other, and shall put up at such sales such quantities of tea as shall be judged sufficient to supply the demand; and at each sale, the tea to be put up shall be sold without reserve to the highest bidder, provided an advance of one penny per pound shall be bid upon the price at which the same is put up: By another statute it is enacted, that it shall not be lawful for the East In-

dia Company 'to put up their teas for sale at any price which shall, upon the whole of the teas so put up at any sale, exceed the prime cost thereof, with the freight and charges of importation, together with lawful interest from the time of arrival of such teas in Great Britain, and the common premium of insurance, as a compensation for the sea-risk incurred thereon.' And by another clause of the same statute, the Company are bound to lay before the Lords of the Treasury copies of the accounts and estimates upon which their orders for importation, prices for sale, and quantities put up to sale, shall be grounded.

The object of these clauses is obvious. They are intended to hinder the Company from artificially enhancing the price of their teas, by obliging them to put them up to sale at what they really cost them, and to sell them at such a moderate advance as would afford only a reasonable profit. But the provisions in this statute have been just as openly trampled under foot as those in the statute of George II. The expense of the Company's Factory at Canton, for the purchase of teas, consisting of twelve supercargoes, eight writers, &c. &c. is included in the *prime cost of the teas*. The members of this Factory, in addition to very large fixed salaries; are allowed a commission of two per cent. on the sales both of the outward and homeward investments, which commission may be estimated on an average at about 125,000*l.* a year. The senior member of the Select Committee of the Factory is in receipt of the comfortable sum of about 18,000*l.* a year; and the other gentlemen of this lucrative concern, who are almost all sons or near relations of Directors, are all paid on the same prodigal scale: Exclusive of their salaries, they have also a luxurious table, nominally furnished by the East India Company, but really by the tea-drinking gossips of Great Britain: For it is a fact, that every shilling which this useless and cumbersome establishment swallows up is included, along with a hundred other unnecessary articles of expense, in the cost, and consequently in the putting-up price, of the teas sold at the Company's sales. But the making the public pay 200,000*l.* a year to the progeny of the directorial junto, for doing a similar duty to that which is infinitely better done for the Americans by a consul with a salary of 200*l.*, is not the worst part of the conduct of the Company. Instead of bringing forward, as they are expressly ordered by the statute, such a quantity of tea as might supply the market at a little advance on the upset price, they invariably *understock* the market; and as no one else can come into competition with them, they are thus enabled to

force up the price of tea to the most exorbitant pitch, and gain an enormous profit. Thus, according to the Company's own statement, Bohea is invariably put up at 1s. 6d. per pound, and it is as invariably sold for 2s. 5d. or 2s. 6d., being an advance on the upset price, and consequently an admitted profit, of no less than *sixty* or *sixty-six* per cent.: Cam-
poi is generally put up at 2s. 9d. and sold at about 3s. 5d., being a profit of *twenty-one* per cent.: Souchong, which is put up at 3s., is uniformly sold at about 4s. 5d., being a profit of *forty-seven* per cent.: Twankay, which is put up at 2s. 5d., is generally sold at 3s. 5d., being a profit of *forty-one* per cent., which is about the profit on Hyson-skin and Flyson. These exorbitant prices and profits have had the effect, as the statements previously given show, of nearly banishing the finer descriptions of tea from the British market, and of forcing an excessive consumption of Congou. As a further proof of this, we may mention, that the quantity of Souchong sold by the Company during the last seven years, is not equal to the quantity which they were formerly accustomed to sell even in *one* year!

Are we not then entitled to say, that the conduct of the East India Company with respect to the tea trade, exhibits, in every part, a spirit of unparalleled rapacity? Though, as the Government must be fully aware of the extent to which the Company have carried their system, and as they are authorized by law to compel them to bring forward a sufficient supply of tea at their quarterly sales, and to take such measures as may be necessary for preserving its price in this country, nearly on a par with its price in other countries, they must be considered as parties to this barefaced robbery, for it is nothing else, of the public. The present President of the Board of Control, whatever may be his merits in other respects, is at least thoroughly acquainted with all the *statutes* relative to the tea trade. Why then does he take no steps to have the provisions in these statutes enforced? We do not wish him to act with 'a vigour beyond the law;' but we do wish him to interpose to protect, what are so very dear to him, the acts passed by, as he reverently terms it, the *collective wisdom of the Great Council of the Nation*, from being treated with contempt and scorn by that very Company, whose proceedings he has 4000% a year for controlling!

The statements we have now made, and we defy the Company to controvert them, show that it is a gross error to suppose, as is very commonly done, that the comparatively high price of teas in this country, is mainly a consequence of the duty payable to Government. The duty on all teas sold at

above 2s. per lib. is an *ad valorem* one of 100 per cent., and consequently, just *doubles* the price at which such teas are sold by the Company. If the Company sell Souchong at 4s. 5d., its price to the merchant, after the duty has been paid, will be 8s. 10d.; but if Souchong were sold to the wholesale merchant as it is sold in Hamburgh and New York, and as it might be sold in this country, were the trade free, at 1s. 6d., its price, inclusive of duty, would be only 3s.,—or 5s. 10d. less than at this moment ! The same is the case with Bohea, Congou, and every other description of tea. And such being the case, the Government, as well as the country in general, is interested in getting the *nuisance* of monopoly completely put down, and the vast market of China thrown open to the free and unfettered competition of our merchants and manufacturers. The fall of price that would thus be occasioned, would greatly extend the consumption of tea ; and the duty, though levied on a cheaper article, would soon produce a much greater revenue.

We believe we shall hear no more about the necessity of conducting the China trade by the agency of an exclusive Company. The Americans, who have no such company to trample on acts of Congress, and to plunder their fellow-citizens, carry on the China trade with complete and perfect success ; and are much greater favourites at Canton than the emissaries of Leadenhall Street. But as the Company is secured in the possession of the monopoly until 1833, all that can now be done is, to compel them to act up to the stipulations in their contract with the public ; and to take such measures as may be necessary, either by granting licenses to private traders, to import teas from Hamburgh and Amsterdam, or otherwise, to reduce the price of tea in this country, as the statute has ordered, ‘ *nearly to an equality with the price thereof in the neighbouring countries of Europe.* ’ * We pledge ourselves to let the public know whether this is done.

ART. IX. *The Holy Alliance versus Spain ; containing the Notes and Declarations of the Allied Powers, with the Replies of the Spanish Cortes.* By a CONSTITUTIONALIST. London. Ridgeway. 1823.

THE most important subject that can at the present moment occupy the attention of any statesman ; or interest the feelings of any nation, is, beyond all question, the conspiracy of

Sovereigns against the improvement of mankind. That we have a right thus to describe the League, is amply demonstrated by its whole proceedings. To prevent the establishment of free governments, and not only of democracies but of limited monarchies, has been its avowed object ever since its active operations commenced; and as the progress of knowledge and the general melioration of the people's condition depend essentially upon the government they live under recognising and protecting their rights, those who have declared war upon the constitutional system, and proclaimed absolute monarchy, whether exhibited in its naked deformity, or covered over with some thin and flimsy disguise, have, by an inevitable consequence, proscribed all improvement, and decreed the perpetual reign of popular ignorance and debasement. They have begun, however, somewhat too late; they are not likely to succeed in the end; temporary victories they may gain, and much present desolation may be the result of their hateful efforts; but the progress which mankind have already made in gaining knowledge and power, is a sufficient security for their acquisition of what remains; and we may safely predict, that the Allies will at last either yield to the current, or be swept away by it. Nothing can tend more towards their discomfiture, than a constant recollection of the reign and progress of this detestable confederacy; and we therefore purpose here to lay before the reader a summary of the principal passages in its history, chiefly taken from their own State Papers. But we may conveniently begin with a few particulars in the lives of its members previous to their entering upon their present course; a preliminary the more indispensable, because those are the particulars which their Majesties now wish the most to be forgotten.

One sentence describes faithfully, yet concisely, the history of their conduct towards Napoleon, and that legitimacy, now the point on which all their movements turn. To oppose him, be defeated by him, and become his accomplices, was the lot of them all in succession; and whether he bade them serve against each other, or join him in the plunder of some feeble state, he always found them willing tools. If it be said that they yielded to superior force, the answer is, that force does not make men receive their share of plunder; nor squabble with one another about precedence in servility to the conqueror; nor, above all, intrigue against each other for leave to become allied with him by marriage. But what shall be said of their conduct to Spain and its ancient government, now the object of their fondest solicitude? It is positively asserted, that the invasion was part of the secret articles of the treaty of Tilsit. It is known,

that at the conferences of Erfurth, the Emperor Alexander was pleased to treat the war of the Spaniards against Buonaparte as an insurrection,—‘ thus giving,’ says the manifesto of the English Government, * ‘ the sanction of his Imperial Majesty’s authority to an usurpation which has no parallel in the history of the world.’ That the title of Joseph to the Crown of Spain was not formally acknowledged at Erfurth, was no fault of Austria; for M. Metternich has expressly said in his correspondence with the French minister Champagny, that had Napoleon suffered him or his master to assist at those conferences, the recognition of King Joseph would have been secured. It is true, that, taking advantage of the very resistance in Spain which she would fain have been permitted to help in crushing, Austria soon after was at war with Napoleon. He beat her, however, as usual, and the famous marriage was the result.—When, indeed, the fortune of that great man left him, and, through the exertions of their subjects, the Allies regained their independence, nothing in the history of human rapacity and meanness ever surpassed their unprincipled adoption of the very worst parts of his conduct to foreign and independent nations. But the events are too recent to require recital, which so shamefully connect the name of England, as well as that of the Alliance, with Norway, Saxony, Genoa, and Ragusa.

Now, these are the Sovereigns who, as soon as peace was restored, and the work of present spoliation completed, thought fit to establish themselves as the guardians of publick tranquillity, and, for this purpose, to form the League, become so famous under the name of the Holy Alliance, and of which the vile canting hypocrisy is perhaps the most disgusting feature. They begin by solemnly declaring, ‘ That the present act has no other object than to publish, in the face of the whole world, their fixed resolution, both in the administration of their respective States, and in their political relations with every other government, to take for their sole guide the precepts of that holy religion, namely, the precepts of justice, Christian charity, and peace.’ They then agree, ‘ conformably to the words of the Holy Scriptures,’ to consider each other as brethren and fellow-countrymen; and ‘ on all occasions, and in all places, to lend each other aid and assistance, and lead their subjects and armies in the same spirit of fraternity with which they are animated, to protect religion, peace and justice.’ But the most sacred article is the second. ‘ The sole principle in force, whether between the governments

* King’s Declaration, dated Westminster, 15th December 1806.

‘or between their subjects, shall be that of doing each other reciprocal service, and of testifying, by unalterable good will, the mutual affection with which they ought to be animated, to consider themselves all as members of one and the same Christian nation,—the three Allied Powers looking on themselves as merely delegated by Providence to govern three branches of the one family, namely Austria, Prussia, and Russia; thus confessing that the Christian nation, of which they form a part, has in reality no other sovereign than Him, to whom alone power really belongs, because in Him alone are found all the treasures of love, science, and infinite wisdom; that is to say, God our Divine Saviour, the Word of the Most High, the Word of Life.’ They then ‘recommend to their people, with the most tender solicitude, to strengthen themselves more and more every day in the principles and exercise of the duties which the Divine Saviour has taught mankind.’ An article is subjoined, declaring their readiness to receive all States who shall profess the same principles, ‘into this Holy Alliance, with equal ardour and affection.’

It is singular with what indifference the Government of England regarded this strange and portentous confederacy. Any unprejudiced person must have perceived, in its mere novelty, matter sufficient to excite attention; but when it plainly avowed a general military control or superintendence to be exercised by the combined powers, as the principal object of the League, he must have been a very confiding personage who could be lulled into security by the high-flown phrases of mock religion, in which the real designs of the authors were wrapt up, or close his eyes to their project of governing all Europe by force; because, while they openly proclaimed that they were to ‘lead their armies’ for the accomplishment of their purposes, they hypocritically pretended that they only meant by those armies ‘to protect religion, peace and justice.’ Such candid judges however, did the Holy Allies find in our ministers. Lord Castlereagh treated any doubts of their perfect good faith and sincerity as wholly ridiculous; and spoke of those who were naturally enough reminded of Poland, not more by the persons of the drama, than by the language which they used, as ‘going back to the *ancient* history of that country,’ for proofs against the *present* Sovereigns of Russia, Austria and Prussia, (the present sovereign of Austria having been himself engaged in the last partition.) Nor was this confiding spirit at all shaken by the events, even of 1820; the Congress and Manifestoes of Laybach and Troppau. We have referred to Lord Castlereagh’s language in 1816. In 1821, the Allies having disclosed

more plainly the nature and objects of their conspiracy, our foreign minister's trust in their integrity had become more implicit, and his taunts on all who suspected them, more bitter. 'He was not at all disposed,' he said, 'to shrink from the defence of the Holy Alliance, on which so many strictures had been passed. It was not surprising that honourable gentlemen on the other side should feel a little sore at an Alliance which had disappointed all their lamentable forebodings. It was perhaps too much for human nature to behold with patience, what, so long as it should endure, must be a monument of their folly;—this Alliance, which he hoped would long continue to cement the peace of Europe, had proved, to demonstration, the absurdity of those prophecies in which they had indulged, and of the schemes of policy which they had recommended. The people of England, whose courage had nerved the arm of Government in its military exertions, would not easily be induced to think that the views on which that Alliance was formed had been departed from.'

Nevertheless, with all this disposition to rely upon the Allies, our Government, just about that time, seems to have discovered something wrong,—to have caught a glimpse of the truth,—and to have had, for the first time, certain misgivings about the expediency of having a league of the greatest military powers for the purpose of systematically interfering in the internal concerns of all the world.

There was, no doubt, matter enough to make the giddiest reflect, and the deepest sleeper awake, in the famous Circular which the Confederates issued from Troppau. They here openly avow that they had taken all Monarchical Governments under their protection. They state the 'necessity under which they feel themselves of putting a check on the new calamities with which Europe is threatened' by the changes that had recently been effected in Spain, Portugal, and Naples. They assert, as unquestionable, 'their right to take, in common, general measures of precaution against those States whose reforms, engendered by rebellion, are opposed to legitimate government,' and add, with a marked condescension to those petty principalities France and England, that they 'have communicated to the Courts of London and Paris their intention of attaining the end desired, either by mediation or by force.' They then announce that they have summoned (or as they term it, 'invited'), the King of Naples to repair to Laybach, being 'resolved not to recognise any authority established by the seditious,' that is, by the people.

The language in which our answer to this document resented the proscription of the fundamental principles of the British Constitution, and the disclosure of a wish to rectify, by help of foreign troops, the popular excesses of our form of Government, was far too feeble and tame. Nevertheless, it was sufficiently at variance with the spirit of entire confidence which, even after the answer was returned, they affected to entertain. They are of opinion, that the adoption of those principles would inevitably sanction, and, *in the hands of less beneficent monarchs*, might hereafter lead to a much more frequent and extensive interference in the internal transactions of States, than they are persuaded is intended by the August parties from whom they proceed, or can be reconcileable either with the general interest, or with the efficient authority and dignity of independent sovereigns. They do not regard the Alliance as entitled, under existing treaties, to assume, in their character as Allies, any such general powers,—nor do they conceive that such extraordinary powers could be assumed, in virtue of any fresh diplomattick transaction among the Allied Courts, without their either attributing to themselves a supremacy incompatible with the rights of other States, or, if to be acquired through the special accession of such States, without introducing a federative system in Europe, not only unwieldy and ineffectual to its object, but leading to many most serious inconveniences.

At the same time they fully admitted, that other European states, and especially Austria and the Italian Powers, might feel themselves differently circumstanced; and they professed, that it was not their purpose to prejudge the question as it might affect them, or to interfere with the course which such States might think fit to adopt with a view to their own security, provided only that they were ready to give every reasonable assurance that their views were not directed to purposes of aggrandisement, subversive of the territorial system of Europe, as established by the late treaties. In other words, with something like a general protest, carefully entered on the eve of Parliament assembling, they gave full credit to the purity of the motives which influenced the Allies in adopting the particular measure then announced as undertaken; and, while they expressed their apprehensions that the new principles promulgated by the League might tend to a dangerous system of interference, they at the same time expressed their satisfaction with the act of violent interference in which the Confederates were engaged, because it was coupled with every reasonable

assurance' that its motives were innocent and honourable. Ludicrous as this confiding spirit now appears, we question if it has not been surpassed within the last twelve months.

The invasion of Naples, and its entire subjugation by Austria, acting as the instrument of the Alliance, and under their protection, followed within a few weeks after these proceedings at Troppau, and this acquiescence in England. All Italy might now be said to have come under the Austrian yoke; and one more galling to the vanquished, both from deeply-rooted national antipathy, and from the extreme rigour and even cruelty with which the conquerors have demeaned themselves, is not described in the history of revolutions among the civilized states of modern times. While the people in general are oppressed by severe exactions, insulted by a barbarous soldiery, and deprived even of the benefits of a good police, which Austrian domination used formerly to bring with it as some sort of compensation for its burthens, the more refined classes, the nobles, the lawyers, the men of letters, are exposed to a persecution that knows no bounds, for supposed political offences. Imprisonment for two or three years, without any accusation; solitary confinement, without even a book to read; the hardest fare; damp dungeons; constant illness resulting from all these sufferings;—such has been the torture inflicted upon those unfortunate persons, to extract a confession when there was nothing to disclose; and when it was ascertained, or supposed to be ascertained, that the victims had belonged to any secret society, sentence of perpetual imprisonment, or of death commuted for imprisonment,—or, in cases where mercy was intended to prevail, imprisonment and hard labour in a Hungarian fortress for seven, ten, or fifteen years, has been the result. The proceedings of this most hateful usurpation at Milan, the head-quarters of Austrian tyranny, are little known; but we shall present to the reader an extract from a work published in Spain by one of the refugees, who there sought shelter, and has since, as we are informed, found an asylum in this country. His account is confined to the persecutions suffered by the Liberal party in the dutchy of Modena, garrisoned by Austrian troops, and ruled by a kinsman of the Emperor, under the protection, and according to the purest principles, of the Holy Alliance.

No disturbance of any kind took place in the States of the Duke of Modena and Reggio, at the date of the Revolution in Piedmont in the beginning of the month of March 1821, which terminated on the 8th or 9th of April following. At the two extremities of Italy, Naples and Piedmont, the governments were employed, under the protection

of the Austrian troops, in punishing the authors of the revolution, and crushing the Liberal party. The rest of the Peninsula, whatever might have been its disposition to second the Neapolitans and Piedmontese in the event of success, was in a state of repose, and tranquil resignation to its fate, which afforded no reasonable ground of apprehension to the Austrian Governments. But they consulted rather their aversion to the Italian name, than the dictates of an enlightened policy. The Grand Duke of Tuscany courageously refused to take part in the system of persecution. The Duchess of Parma resisted for some time, but yielded at last. The Duke of Modena had already given proof of his sentiments. His counsels had directed the violent measures of the King of Sardinia, who happened, unfortunately for the Piedmontese, to be at Modena at the period of the revolution, and remained there for some time after. It was to be expected, therefore, that the hand of the Duke would fall heavily on the 450,000 Italians, who were delivered over without defence to his unlimited power.

‘ The first arrest took place in his States in the beginning of 1822. The Director of Police, named Giulio Besini, was intrusted with the first examination of the persons arrested; and he acquitted himself of his commission with as much knavery as cruelty. His general mode of procedure was this:—The prisoner was at first well treated; at the end of some days he was brought up for examination. Besini employed menaces, address and promises, by turns, to obtain the declaration which he wished. If the prisoner had nothing to tell—or courage enough to be silent, his indiscretions immediately became crimes. He was thrown into a dark and unhealthy dungeon, where he was condemned to remain, or satisfy his inquisitor by confession.

‘ Besini, in addition to this plan, employed other means applicable to the particular situation of the prisoners.

‘ The wife of Francesco Caronzi begged him to interest himself in the fate of her husband. Besini received her with kindness, encouraged her, and endeavoured to calm her anxiety. He assured her there was nothing dangerous in the matter,—that the Duke had no wish to punish, but only to know every thing,—“Sincerity and confidence may still repair all. Advise your husband then to embrace immediately the means of being restored to his family.” The wife of Caronzi was persuaded: She induced her husband to acquaint Besini with his imprudent connexion, and to deliver to him the laws of a secret society of which he was a member. Caronzi was condemned to the galleys for 20 years; but the Duke has since reduced the punishment to 15.

‘ The same artifices were practised towards the wife of Dr Farrioli; but the Doctor, of a stronger mind than Caronzi, forbade his wife to visit him in prison, that he might escape the risk of yielding to importunate solicitation.

‘ Manzotti, Secretary of St Ilario, having long resisted the menaces and artifices of Besini, was chained by the neck to the wall of his prison,

in such a way as to oblige him to remain erect. He was left for several days in this situation, till his reason began to wander. Being brought before Besini, he spoke as he wished; told all that he knew, or did not know. He lost his senses entirely; and the unfortunate being was frequently heard in his delirium uttering cries of grief, and reproaching himself with having sacrificed the lives of the innocent to save his own.

Antonio Nizzoli of Brescello, was confined for 40 days, and chained in such a way that he could not sit down, or move but with his arms extended. In this situation, he was seized with strong fever. His prison was opened at midnight, and he was brought before Besini. "Villain," said the director, "confess your crimes." "I know nothing," replied the prisoner, "I know not what I say or what I do;—I know only that I am innocent, but in the state in which I am, I might confess that I am guilty." "You are a monster—sign this paper." "What is it?" "You have nothing to do with that, you have only to sign; or look round you." Nizzoli saw the executioners approaching with whips in their hands. His courage and his senses failed him, and he signed the paper.

'I have cited only the most striking facts; but each prisoner may be said to have been the object of a particular moral or corporeal torture, and frequently of both at once. Some received an allowance of food unequal to their wants. The use of snuff was denied to another. A third was reduced to subsist almost entirely on coffee, till his mental faculties were weakened.

'Besini was honoured with the particular friendship and confidence of the Duke of Modena. But the Prince had the misfortune soon to lose this man, who entered so warmly into his views. Besini was assassinated in Modena by an unknown hand, in the night of the 14th May 1822, and died of his wound on the 15th, or the day after.

'After his death, the Duke summoned to Modena a strong garrison of Austrian troops, and, by his decree of 19th June 1822, appointed a special tribunal for the trial of political offences. The tribunal, surrounded by Austrian soldiers, held its sittings in the castle of Rubiera, between Reggio and Modena. The judge employed in the commission was a man of honour. His name was Vedriani. He wished that the accused should be informed, before their judicial examination on their preceding depositions to Besini, that they were to expect no favour or impunity from their judges, and that Besini had never been authorized to make any such promise. The other judges opposed the proposition of Vedriani. They entered into the views of the Prince, who had appointed them, not to judge, but to condemn. Vedriani demanded his dismissal, which was easily obtained.

'The trial, the defence, and the whole proceedings, took place with shut doors. The accused were not allowed to chuse their advocates. They were assigned to them by the judges themselves;

but it is but justice to say, that they performed their duty with firmness.

' The sentence was given 11th September 1822, and transmitted to the Duke.

47 persons were condemned.

To death	-	-	9	}	4
To the Gallies for life	-	1			
20 years	-	5			
15 —	-	1			
10 —	-	1			
— Imprisonment from one to ten years	-	30			

' The Duke, by his decree of 11th October 1822, granted some mitigation of the punishments; and the final result was as follows.

To Death	-	8	
The Gallies for life	-		
20 years	-		
15 —	-	47.	
12 —	-		
10 —	-		
Imprisonment from one to ten years	-	31	

' Only one capital execution, however, took place, that of the priest *Giuseppi Andreoli*.

' It is perhaps not unimportant to observe, that the 47 persons condemned belong, with the exception of one individual, to the elevated or educated classes of society. In their number were a priest and a nobleman, both condemned to capital punishment. Men of property, lawyers and physicians, with some officers of the old army of Italy, made up the rest. Fifteen were fathers of families.' *

Let us resume our account of the proceedings of this conspiracy, which, having unhappily been permitted to carry the first branch of its scheme against free States into effect by the conquest of Naples, soon turned towards the Peninsula in order to accomplish the remaining object of the Troppau decree. Austria had been ordered upon the former service, and France was now sent upon the latter.

Any thing more shameless than the pretences under which the Allies attacked Spain, was never exhibited to the indignation of mankind. Russia, in 1812, had made a solemn treaty

* The work from which the above account is abstracted, is entitled ' *Dei processi e delle sentenze contra gl'imputati di Lesa-Maestà e di aderenza alle sette proscribed negli stati di Modena. Notizie scritte da Antonio Panizzi, e pubblicate da * * *. Madrid; Torres. 1823.*' We are informed that only one copy of the work has found its way to England.

with the Cortes, recognised it 'as the legitimate government' of the country, and expressly acknowledged 'the constitution decreed and sanctioned by it.' In not one tittle did that constitution differ from the system, to destroy which the late war has been carried on. It had been overthrown by Ferdinand, and was afterwards restored without the most minute variation. Yet against this constitution it is that all the manifestoes of the Allies are directed, as a system of anarchy dangerous to its neighbours, and of oppression injurious to its sovereign. But the whole, or nearly the whole complaints of the Confederates, are directed to the internal affairs of Spain; and every one arrangement of its government, and each act of its administration, is made the subject of caviil, the ground of formal remonstrance, and the justification of hostile menace.

It may be worth while to record a few samples of the topics urged by the Allies upon this memorable occasion.

'Anarchy' says the Russian Note, 'appeared in the train of revolution; disorder in the train of anarchy. Long years of tranquil possession soon ceased to be a sufficient title to property; the most sacred rights were soon disputed; ruinous loans, and contributions unceasingly renewed, soon attacked both public wealth and the fortunes of private individuals. As was the case at that epoch, the bare recollection of which makes Europe shudder, religion was despoiled of her patrimony; the throne, of popular respect; the royal dignity was outraged; and authority was transferred to assemblies where the blind passions of the multitude seized upon the reins of Government. Lastly, and to complete the parallel with those days of calamity so unhappily re-produced in Spain, on the 7th of July, blood was seen to flow in the palace of the King, and a civil war raged throughout the Peninsula.

'During nearly three years, the Allied Powers continued to flatter themselves that the Spanish character, that character so constant and so generous when the safety of the country was in question, and lately so heroic when it struggled against a power produced by revolution, would show itself at last, even in the men who had the misfortune to betray the noble recollections which Spain might proudly recal to every nation in Europe. They flattered themselves that the Government of his Catholic Majesty, undeceived by the first lessons of a fatal experience, would adopt measures, if not to stop, by one common effort, the numerous calamities which were bursting upon them from all sides, at least to lay the foundations of a remedial system, and to secure, gradually, to the throne its legitimate rights, and its necessary prerogatives: also, to give to subjects adequate protection, and to property indispensable guarantees. But those hopes have been utterly falsified. The lapse of time has only brought with

it fresh injustice ; violence has been increased ; the number of victims has frightfully augmented ; and Spain has already seen more than one warrior, and more than one faithful citizen, hurried to the scaffold.

‘ It is thus that the revolution of the 9th March went on, day by day, hastening the ruin of the Spanish Monarchy, when two particular events occurred, which excited the most serious attention of Foreign Governments.

‘ In this state of things, the Emperor, our august master, has determined to take a step which cannot leave to the Spanish nation any doubt as to his true intentions, nor as to the sincerity of the wishes he entertains in her behalf.

‘ It is to be feared that the dangers arising from vicinity, which are always imminent, those which menace the Royal Family, and the just complaints of a neighbouring State, will terminate in creating, between him and Spain, the most grave embarrassments.

‘ It is this painful extremity which his Majesty would avoid if possible ; but, as long as the King is not in a condition to express freely his will ; as long as a deplorable order of things facilitates the efforts of the artists of revolutions, who are united by one common bond with those of the other countries of Europe to trouble its repose, is it in the power of the Emperor, is it in the power of any Monarch, to ameliorate the relations of the Spanish Government with Foreign Powers ?

‘ On the other hand, how easy would it be to obtain this essential end, if the King recovered, with his perfect liberty, the means of putting an end to civil war, of preventing a foreign war, and of surrounding himself with the most enlightened and the most faithful of his subjects, in order to give to Spain those institutions which her wants and her legitimate wishes require.’

The conclusion of the Note contains a plain threat of hostile operations, in case the Constitution shall not be moulded to suit the taste of the Russian.

‘ In directing you, M. le Comte, to communicate to the Ministers of his Most Catholic Majesty the sentiments developed in this despatch, his Majesty is willing to believe that neither his intentions nor those of his Allies will be misinterpreted. In vain will malevolence endeavour to represent them in the light of foreign interference, which seeks to dictate laws to Spain.

‘ To express the desire of seeing a protracted misery terminate ; to snatch from the same yoke an unhappy Monarch, and one of the first among European nations ; to stop the effusion of blood, and to facilitate the re-establishment of an order of things at once wise and national, is certainly not attacking the independence of a country, nor establishing a right of intervention against which any power whatever would have reason to protest. If his Imperial Majesty had other views, it would rest with him and his allies to let the Spanish

revolution complete its work. Very soon, every germ of prosperity, of wealth, and of power, would be destroyed in the Peninsula ; and if the Spanish nation can suppose these hostile designs to be entertained, they should look for the proof of their existence in the indifference and the inaction of the Allies.

‘ The reply that will be made to the present Declaration must decide questions of the very highest importance. Your instructions, from this day, will point out the determination that you are to make, if the dispositions of the public authority at Madrid reject the means which are offered for securing to Spain a future tranquillity and an imperishable glory.’

The Austrian Government, after a similar invective against the conduct of domestic affairs in Spain, requires, as the condition upon which that country can be regarded with confidence and friendship by the Allies, that the King should have a larger share of influence allowed him in the constitution—for this alone can be the meaning of ‘ setting him free, not only ‘ as regards the personal liberty which every individual may ‘ claim under the reign of the laws, but that liberty which a ‘ Sovereign ought to enjoy, in order to discharge his high vocation.’

The Prussian is filled with horror, it seems, at a revolution effected by military power, and complains that the government, powerless and paralysed, had no longer the means of either doing good or preventing evil—that, without the slightest hesitation, the most venerable and sacred rights were abolished ; lawful property was violated ; and the Church was stripped of its dignity, its prerogatives, and its possessions—that on all sides discontents burst forth, and whole provinces became the prey of civil war—that, in the midst of this dreadful agitation, the Sovereign of the country was seen reduced to an absolutely powerless state, deprived of all liberty of action and of will, a prisoner in his capital, separated from all his faithful servants, who still remained attached to him, loaded with insults and contumely, and exposed from day to day to attempts which, if the faction did not provoke them, at least they had retained no means of preventing.’ The Note then comes to the grand charge of all—that ‘ doctrines subversive ‘ of social order are openly preached and protected ; insults ‘ directed against the principal Sovereigns of Europe (viz. the ‘ Holy Allies), fill, with impunity, the public journals.’

The French Government, throughout the whole of these transactions, performed the most false and deceitful part. Under pretence of preventing the contagion of a fever prevalent, or said to be prevalent, in Spain, from crossing the frontier, a

strong cordon was drawn; that is to say, a considerable army was stationed on the boundary, and a large army assembled in the Southern provinces of France. Constant assurances of a pacific disposition were given to the English ministers, while that force was preparing to march, and bands of emissaries were poured into Spain, supplied with the means of exciting discontent, and even insurrection, against the Constitutional Government, by money and intrigues. The Army of the Faith was increased, and almost subsisted by such aid; the preparations to give it still more effectual assistance were not for an instant relaxed; and all the while the language of peace and confidence in this country was familiar to the French ministers in every communication. Thus, in December (1822), M. de Villele, beside expressing repeatedly 'his own earnest desire for the preservation of peace,' intimated 'his wish to receive the advice of the British Government in his endeavours to preserve it.' (*Papers presented to Parliament, April 1823, p. 8.*) Sir W. A'Court, on the 24th of the same month, states, that 'there is certainly 'nothing in the despatches from Paris, nor in the conversations or conduct of General Lagarde' (the French ambassador at Madrid), 'to make this Government despair of avoiding 'a war even without our mediation.' (*Ibid. p. 28.*) On the 26th, the Spanish Minister saw 'reason to believe that France 'was by no means in those decidedly hostile intentions which 'there had once been reason to apprehend.' (*Ib. p. 33.*) On the 7th of January, we find a still more positive assurance of peaceable intentions had been conveyed to the Spanish Minister; for Sir W. A'Court writes, that the French Ambassador 'had the start of his colleagues' (the ministers of the three powers), 'having received his letters two or three days earlier than they received theirs, and that he made use of this time to give that favourable impression of the intentions of his Government, to which his attention appears to have been directed by his instructions; and he had already prepared the Spanish Government thoroughly to understand the position in which France had placed herself, long before any intimation could be given by the representatives of the other Continental powers of the intentions of their respective Courts.' He adds, that 'the Spanish Government *thus sit comparatively at ease with respect to France*, and, sure of the neutrality of England, could not be expected to pay any very great attention to the vague suggestions of three distant powers, couched 'in language very far from conciliatory.' (*Ibid. p. 34.*) Here, then, we see a proof, that, at the very moment when the Holy Allies were threatening war in case Spain refused to abandon

her free constitution, and reestablish despotism, France, through whose ministrations this menaced vengeance was to be executed, and whose preparations were already almost completed to carry the sentence into effect, contrived to persuade the victim that she was determined to be neutral, if not friendly, in the struggle; and that any denunciations of the Northern potentates were too vague and too remote to deserve serious attention, or be made a reason for defensive measures. Indeed, the intentions of France and of England are spoken of in the same language; and Spain seems to have had nearly as much dread of the one power as of the other, and to have been almost equally relieved by ascertaining the 'strict neutrality' of both.

But the mask was not cast off till a far later period than this. On the 23d of January, only five days before the French King's speech announcing war, M. Chateaubriand (in a long and most laboured despatch, marked by a self-complacency and vanity of authorship unprecedented in the compositions of men of business), declares, that 'France, like the British Government, sincerely desires peace.' (*Papers*, p. 22.) And, on the same day, in a conference at Paris, he persuaded our ambassador that 'they would be glad to avail themselves of the publication of an amnesty, accompanied by any change, however trifling, if brought about by the authority of the King of Spain, which might enable them to avoid a declaration of war.' (*Ib.* p. 41.) Nay, the French King's speech itself, which, to every reader in France, taken in the ordinary sense of the words, conveyed a distinct intimation of war beginning, if not actually commenced; which announced 'an order recalling the ambassador,' and promulgated the intelligence, that 'one hundred thousand Frenchmen, commanded by a Prince of the family, were ready to march,' for the purpose of 'preserving the throne of Spain to a Bourbon, saving that fine kingdom from ruin, and reconciling it with Europe,' was represented to our minister as an ambiguous and conditional declaration; and he informs his Government, on the 30th of January, that, 'notwithstanding the strong evidence of preparation for hostilities, he receives assurances, both from M. de Villele and M. de Chateaubriand, that they do not participate in his uneasiness upon the subject of those preparations, because they yet continue to entertain hopes that war will not take place.'—(*Ibid.* p. 44.)

During all this correspondence, it is to be observed, that the English Government had never very distinctly declared its intentions. The cunning Frenchmen were feeling their way; they were ascertaining, by degrees, how far England was dis-

posed to go in acquiescence, not to say submission, and how far they might venture to proceed, in their aggressions upon every principle of publick right and national independence; they were trying what portion remained in us of the old spirit which used to direct our councils in better times, and what resources we had left to maintain those principles, or, which was the same thing, what confidence remained to us in those resources. There was nothing in the general tone of our communications to alarm them with the prospect of a very warlike spirit on this side of the Channel; and the result of all the experiments made upon our temper, in all probability was a pretty firm belief in our neutrality; proportioned to which, was the tone of increased hostility in the French King's speech to the Chambers. But still there was no certainty; the fatal words '*strict neutrality*' had not been pronounced, unless in confidential communications to Sir W. A'Court; and, through him, to the Spanish minister; the country might differ, too, with the ministers, and Parliament was about to assemble. The semblance of peace was therefore maintained, in case the sense of the people and their representatives might compel the Government to assume a more becoming attitude, and render the invasion of Spain impracticable. The opening of the Session displayed an almost universal anxiety for the success of Spain, and the utter discomfiture of the Holy Alliance, and, above all, of France, their accomplice and instrument. This suspended the hostile movements; led to new pretences that peace was desired by her as well as by England; and made her actually recede considerably from her extravagant demands. She waited until she could discover with certainty whether or not the spirit of the English nation had extended its rulers, and, having gradually learnt that she had nothing to fear, at length all anxiety was removed by the Prime Minister declaring, in his place in Parliament, that a '*strict neutrality*' was to be preserved; whereupon, namely, thirteen days after this grateful sound was uttered, the army of despotism crossed the Bidassoa. It will only be credited by those who have read the Documents, that after all their intercourse with the French Government, our ministers, at the very moment when they were proclaiming the result of the negociations, and the proofs of their having been severally overreached, voluntarily proclaimed to the country their belief in the sincerity of 'the repeated disavowal by His Most Christian Majesty's Government, of all views of ambition and aggrandizement,' which 'forbade the suspicion of any evil design on the part of France.'

The fatal consequences which have followed from our deter-

mination, that France and the rest of the Holy Allies should do exactly as they pleased with Spain, and indeed with every part of Europe, Great Britain and Ireland only excepted, are too fresh in the recollection of all. France has been suffered to overrun the Peninsula, contrary to the hope of every free man in Europe, and to the most anxious wishes of the wise and the good in this country, however various their sentiments on other matters. This detestable project of military persecution for political opinions, of preventing by main force all improvement in the condition of mankind, and perpetuating slavery and ignorance, and every form of pernicious and antiquated abuse; of establishing arbitrary power at the point of the bayonet, and violently hewing down all free institutions, in order to secure the tranquillity of armed tyrants, under the hollow pretext of maintaining the peace of the world,—has for the present succeeded. The conquest of Spain by France, to prevent which so many wars had been waged in former times, has been permitted by us without any thing like a remonstrance,—with hardly a protest against the enormous wrong. Whether we had so crippled ourselves with the past war, and were so overloaded with debt that nothing short of invasion could rouse us to act our wonted part; or were indifferent to any conquests which the despotism of old masters might make, and only dreaded the progress of new families, and the extension of free states; or regarded ourselves as shut out from the Continent; or relished the Dutch policy of trading with all parties rather than side with any; we were resolved, happen what might, to act the part of Islanders and traffickers; and as long as it was only the subjugation of all Europe that was involved in the question, to keep aloof from it entirely.

Our Ministers appear, from their declarations in Parliament, and their repeated assertions in the papers published by authority, to have expected that the invasion of Spain would be unsuccessful; and one of them avowed his apprehensions for the safety of France if she undertook so desperate an enterprise. They, as well as the friends of liberty, have been signally disappointed, for the present; but the conquest has been one with which France has little reason to be satisfied—as she certainly has none to be proud of it. The hatred of her yoke can only be equalled by the determination to destroy the government she has established against the wishes of the people. If her armies are withdrawn, there is an end of the despotism of Ferdinand; and if they remain, they half occupy, and half govern, some small districts of a large country, all the rest of which is divided between rebellion and anarchy. The best hope for this

country, as far as regards the danger of French aggrandizement, must be derived from the chance of the Spaniards revolting, or their conquerors at length withdrawing from an irksome and costly possession. Assuredly, in the event of a war with France, England would have time to repent of her 'strict and undeviating neutrality,' if the ports of the Peninsula should be in the adversary's peaceable occupation.

We return to the Holy Allies.—And it may not prove an un-instructive lesson to other nations, still placed beyond the sphere of their control, if we exhibit to them the picture of that singular personage whom they have been pleased to take for the object of their tender solicitude, and to hold up as the sample of legitimate monarchy. It is the portrait of a perfectly accomplished tyrant, by nature admirably fitted for the office, but his aptitudes expanded, and his education finished, by having been trampled upon as a slave, and maltreated as a victim, before he was suffered to rule as a despot, and like a monster to torment. The following sketch is drawn by the hand of one who, throughout the whole of his work, shows no disposition whatever to exaggerate the vices of the original.

'He is subject to no ruling passion. He detests the chase, and his only pleasure is in making his horse observe his paces. His demeanour towards those who are intimate with him, goes beyond the bounds of familiarity; and even during the private audiences which he gives to those who are recommended by his favourites, he forgets all etiquette, reclines on a sofa, and smokes and enters into conversation with strangers. He possesses a very strong memory, and is so deep a dissembler, that he often eludes the observation of those who know him most intimately.

'The events of Ferdinand's life have contributed to increase the defects of his character, and to induce him to follow, without any reserve, his favourite inclinations. He has been always cast down through his own fault; he has himself always created the germ of those evils which have come upon him; but he has always found a foreign hand to rescue him from every misfortune.

'His hatred of enlightened ideas, and the fear which he entertains of well-informed men, are features in his character which have exercised, and will continue to exercise, great influence upon the destinies of Spain. She, unhappily, gives herself up to the most profound ignorance, while all the other communities of Europe nobly emulate each other in improving the useful sciences. Ferdinand abhors those sciences as dangerous enemies; and although public opinion does not set him down as a devotee, nor even supposes him to be sincerely religious, he will always continue to favour fanaticism as the best auxiliary of absolute power, which is the idol of his soul, and the most irresistible of his inclinations.' p. 265.

‘ He embittered the final moments of his mother, by expressing to her, through the medium of his ambassador Vargas, an eager desire to get possession of her diamonds, which were both numerous and magnificent. Vargas executed his commission with the indelicacy of a man who is anxious only to please authority, and has no respect for the unfortunate. The Queen objected to give them up; and declared, in presence of Cardinal Gonsalvi, and other illustrious personages of the Court of Rome, that the diamonds should not go out of her possession until death; and that she would much sooner throw them into the Tiber, than give them to her son. She did keep them until she breathed her last; but her body was yet warm when Vargas took possession of the desired treasure, carrying his zeal in Ferdinand’s service to such an extent, as even to remove from the fingers of the corpse a gold ring of paltry value, which Maria Louisa had signified a wish to take with her to the tomb.

‘ The execution of the will of the royal parents showed how inflexible Ferdinand can be when he wishes. They fixed considerable pensions for several persons who had been in their service during their exile. These pensions were all sanctioned by Ferdinand, with the exception of those which were bequeathed in favour of individuals who had shown any attachment to Godoy.

‘ This want of sensibility is one of the most characteristic traits of the present King of Spain. His self-love and pride may be deeply affected, but his heart is never touched. He was affectionately attached to his second wife, Maria Isabel of Braganza; but he was playing at ninepins when her funeral left the palace, and the following day there was not the least sign of grief in his countenance. The uncommon fickleness of his imagination prevents any one sentiment from overruling him, or making any serious impression on his mind. In adversity he was never dejected; when misfortunes of a formidable nature occurred to him, he still knew how to take advantage of all the alleviating circumstances which they produced. It would seem as if he counted with certainty on the combinations of the future, which have so often extricated him from the most imminent dangers.’ p. 263.

‘ When the Queen Maria Isabel came to Spain, she soon shared in the feeling of attachment which her consort professed for Montenegro. This gave rise to a scene which made much noise in the palace. One day the Queen was sewing the cross of Charles III. to the ribband of that order, for the use of her husband. She desired Montenegro to assist her by holding one of the ends of the ribband, and, in doing so, he bent his knee, intending thus to perform the office in the most respectful manner. The King entered unperceived by a side door, and, without seeing what Montenegro was doing, he observed only that he was on one knee, and rather too near the Queen. Actuated by an instantaneous impulse of jealousy, and without stopping to see what was the real state of the case, he rushed towards the favourite and struck him a violent blow, which laid him

prostrate on the floor. The Queen cried out—the servants hastened to her assistance—and Montenegro got up in a confused manner, and, without uttering a word, he withdrew to his own residence. The King, however, was soon undeceived; he ordered him to be sent for, made him a magnificent present, and restored him to all his former favour.' p. 255.

'He was likewise accustomed to have different amusements in his apartment; such as concerts, slight-of-hand and phantasmagoria; at which only a limited number of the courtiers attended. Ferdinand did not find much pleasure in the demeanour of those persons; but he derived great enjoyment from that of the inferior servants, whom he treated with the greatest familiarity, and to whom he allowed the most extraordinary liberties. Amongst them was one Chamorro, celebrated as a sort of stupid and vulgar buffoon, who, by his fooleries, afforded infinite diversion to Ferdinand, and obtained a sufficient degree of influence with him to dispose of the first offices in the kingdom.

'It is incredible what a number of important affairs have been managed in Spain by such obscure means as these. The King listened with delight to all the tales and anecdotes which the servants related to him concerning the most important personages. Frequently have his servants, who were interested in the issue of any affair, preoccupied his mind in such a manner, that when the ministers came to transact business, he informed them of the resolution which he had taken, and which was often the very reverse of what they contemplated. Woe to the minister who, in such circumstances, showed the least obstinacy in opposing the suggestions of those secret instruments!

'It happened more than once, that these persons introduced into the King's private cabinet some obscure though bold adventurer, who, by giving it to be understood, that he was informed of the plans of the Liberals, and by exaggerating the risks to which the person of the King was exposed if those designs should be carried into effect, succeeded in obtaining his confidence, together with an important employment. The public was naturally astonished at witnessing such sudden promotions, as it knew nothing of the secret means by which they were acquired.' * p. 251.

It must certainly be admitted, that the Holy Allies have been happy in the choice of a sample whereby all men may know that legitimacy means a title to absolute power, wholly independent of personal merit.

It is natural to inquire whether the Allies will stop short, or carry further their system of extirpating free governments where-

* *Memoirs of Ferdinand VII. by Don * * * * advocate of the Spanish Tribunals. Translated from the original Spanish MSS. by M. J. Quin.*

ever they are to be found? That on the Continent of Europe they are determined to leave nothing like a popular constitution, is manifest; and if we in England are, as yet, unannoyed by their menaces, it is only because we are placed beyond the reach of their power. The principal objects of their hatred, because of their dread, are popular assemblies and a free press. Wherever their influence extends, they have, especially, aimed at destroying the latter. In Switzerland, it has been put down by their direct interference; and in Germany, where their influence was more immediate, instead of exerting it in a legal way through the diet, they threatened particular courts with the recal of their ambassadors, and thus frightened them into a compliance with their tyrannical demands. Refugees seeking shelter from persecution, they will not suffer to remain in any country living under the fear of their hostility. Switzerland herself, so long renowned as the asylum of free men exiled for their civil or religious opinions, has been compelled to drive from her territory numberless individuals of rank, or learning, or talents, which had given umbrage to despotism in their own countries, and occasioned their expulsion, or made them seek safety in flight.

The same spirit of persecution, the same love of intermeddling, and the same dread of free principles, we may rely upon it, would be carried by them into the affairs of the New World, if they could there obtain footing. That they had it in contemplation to attempt reducing the Spanish Colonies to submission, we find admitted in their own State papers. A year ago they distinctly held out this aid as a boon to Ferdinand. Nor is it easy to perceive by what arguments England, after suffering them to overrun Old Spain, under pretence of restoring their favourite to his European dominions, could object to their assisting him in recovering his American possessions. Assuredly, they have the very same right in both cases; nor is there a doubt that the safety of this country is far more nearly interested in preventing the mother country from being conquered, than in maintaining the separation of her colonies. Happily, however, for us and for the interests of mankind, the Government of the United States has interposed to settle this question; and has earned the lasting admiration and gratitude of all freemen, by setting bounds to the progress of despotism, and affording liberty effectual protection in all the vast and fertile regions of the Western World. That England should only follow, where her honour as well as her truest interests required her to take the lead, may be somewhat humiliating to our national pride. That she should follow only when her mercantile sensibilities were roused, is a con-

sideration yet more painful. It certainly cannot be said to have been wholly unforeseen. Six or seven years ago, we made the following remark upon the results of our own foreign policy, which every day since that period has only served to confirm. 'It is alarming to reflect upon the necessary inactivity to which we must now be doomed, should the peace of the Continent be broken. An invasion, indeed, or any other imminent danger to our own security, would be strenuously and successfully repelled. But where is the man who can expect the people of England to engage again in wars to prevent the growth of remoter mischiefs?'—'A less lavish use of the splendid resources which England once possessed, would have preserved her power entire, without any injury to her honour; and it is melancholy to reflect, that they who have squandered away her resources, have also been the first to sully her fame.'

ART. X. *An Elementary Introduction to the Knowledge of Mineralogy; comprising some Account of the Characters and Elements of Minerals; Explanations of the Terms in common use; Descriptions of Minerals, with Accounts of the Places and Circumstances in which they are found, and especially the Localities of British Minerals.* By WILLIAM PHILLIPS, F.L.S. M.G.S.L. &c. Third Edition. In 1 vol. London. 1823.

A CONSIDERABLE difference of opinion appears to exist among naturalists, with respect to the principles of mineralogical arrangement; and until the question be settled, we must expect to find Mineralogy variable in its progress, and unable, from want of precision, to compete with the kindred sciences of Botany and Zoology; a disadvantage which is now so generally acknowledged, that we are persuaded all the true friends of the study will be willing to yield some of their own partialities for the sake of any scheme that may seem likely to be of general authority.

One cause of the diversity of systems, is, that some mineralogists have constructed them with a view to the convenience of students; others, with reference to their abstract and scientific perfection. Another source of difference has been, the want of any proper or fixed opinion as to what it is which properly constitutes a *mineral species*. We must begin by premising a word or two on these subjects.

The study of mineralogy is confessedly difficult, and can scarcely be prosecuted with success without the assistance of a teacher and the exhibition of specimens. With these ad-

vantages, the student may be guided to the object in view by various paths. The teacher may adopt any method he finds suited to the previous acquirements of his pupils, or to his own predilections; and, whatever course he pursues, he may still qualify his pupils for naming minerals, and recognising well established species by their external characters, or even furnish them with a knowledge of their essential elements. But should he publish the method he has successfully adopted in the lecture-room as a *system* of mineralogy, he may fail to exhibit the actual state of the science, either in a philosophical or an attractive point of view. We do not object to *Tyro's Guides* and *Vade-mecums* in mineralogy, but to the union of these with scientific arrangements. For the purpose of aiding the beginner, we would wish to see in our *elementary* treatises, not only all the characters of minerals distinctly defined, but all the species separately arranged under *all* their characters. Thus, under the head of colour, lustre, transparency, fracture, magnetism, or phosphorescence, the different species should be arranged in proper subordination. But in a *System* of mineralogy, the various productions of the inorganic kingdom should be arranged with reference to their essential qualities, and to those laws which have operated most extensively at their formation. Such an arrangement would in fact be an expression of those affinities, or *natural* relations among minerals, the knowledge of which constitutes the philosophy of the science. If there be thus a marked difference between the methods which a teacher may employ to facilitate the progress of his students, and those which an author should use in the construction of a system, it seems obvious that the former should be viewed as essentially subordinate to the latter, and never be allowed to interfere in fixing the true principles of arrangement.

Naturalists have long been agreed as to the meaning of the term *Species*, when applied to organized beings; but considerable differences still prevail with respect to its signification in mineralogy. These seem to arise, in part, from a desire to introduce uniformity into our systematical arrangements, by making similar terms occupy the same rank, and form the index of the same relations. But the differences between inorganic and organized beings are so numerous and well marked, as to forbid all such efforts. Every elementary substance, recognised by the chemist, and occurring in nature in a separate state, is a legitimate object of research to the mineralogist, and merits a place in his cabinet and his system. Again, all compounds in which these elements combine in definite propor-

tions, and which exist in nature, are, in like manner, subjects about which the mineralogist should occupy himself. To these elementary substances, and the definite compounds which result from their union, the term *species* should be extended. It has long been used in this sense by the chemist, not only without inconvenience, but with evident advantage. It will indeed sound strange in the ears of a mere botanist or zoologist, to hear it asserted, that two species may unite and form a third species; or that, by the union of three, a fourth species may be produced. Such combinations can never take place in the organized kingdom; while, in the mineral kingdom, they are of very frequent occurrence.

Individuals belonging to the same mineral species, may be found in nature in the gaseous, liquid, or solid state. Each state may even exhibit different conditions, especially the last, in which the substance may exist in the form of a powder, compact, or crystallized in regular external forms. Thus the Diamond is the species (?) *Carbon*, in a particular state of solidity. When this species is united with oxygen, another elementary body, the species *Carbonic acid* is formed. This occurs either gaseous or fluid, from its union with water at the surface of the earth; though in the interior, it is probably fluid from compression. *Calcium* is an elementary substance, and *lime*, formed by the union of calcium with oxygen, is a definite compound. These, however, are not mineralogical species, because they do not occur in nature. But the *Carbonate of lime*, arising from the union of the two definite compounds, carbonic acid and lime, occurs in nature, and forms therefore a true mineralogical species. The different conditions in which this species exists, in its solid state, are well known, and may serve to illustrate the views we are now endeavouring to explain. It occurs in the form of marl, chalk, limestone, marble, and calcareous spar. Even each of these conditions admits of various modifications. The spar, for example, may be amorphous or crystallized, and the crystals may exhibit rhomboidal, prismatic, or pyramidal forms. But in all these conditions, however various their appearance, the essential properties of the definite compound continue the same. Equal relative quantities of lime and carbonic acid would be yielded by equal weights of all of them. The determination of these facts, in a variety of species, has led to the establishment of the most important law in mineralogy,—*that the same species, in similar states and conditions, always exhibits the same properties.*

In consequence of the manner in which mineral species are necessarily connected by juxtaposition, it frequently happens

that two species, in similar or different states or conditions, become incorporated with each other, without entering into that kind of union which is necessary to constitute a species. Mixtures of this kind have perplexed the mineralogist in no inconsiderable degree.

Having made these observations, we shall now proceed to consider the merits of those methods which have been employed to determine a species; to distribute species into groups, and to give them a systematical arrangement. The most ancient of them, is that called the *Natural-History* method.

The object of the natural historian, in reference to mineralogy, is to observe and classify the appearances which inorganic bodies present, the changes which they undergo, and the relations which they exhibit. The object of physical science, in reference to mineralogy, is to ascertain those laws by which the phenomena of the inorganic kingdom are regulated. If we limit our inquiries to an acquaintance with the natural history of the mineral kingdom, our knowledge will be of a very unsatisfactory kind, and of little value in the arts of life. What, for example, is the amount of the information which a mere naturalist can communicate with regard to granular brimstone? He may tell us of its variable colour, lustre and aspect; the comparatively smooth surface which it exhibits by the action of the weather; and the fertility of soil which it produces in decay. But he who announces, that, by *friction*, it may constitute marble,—that by *burning* it may be converted into cement for the builder, and manure for the farmer,—and that by *melting* it along with certain ores it will form a valuable fluid,—communicates information of a far higher order. Every attempt, therefore, to detach the natural history of minerals from the science which illustrates their nature, and to intimate that a thorough acquaintance with the one is attainable, without a knowledge of the other, deserves reprehension. The early mineralogists were compelled to confine their views to the *history* of inorganic bodies, owing to the imperfection of the sciences which now serve so happily for their illustration. Mineralogy has risen in importance, exactly in proportion to the attention which the naturalist has placed in these sciences, and the assistance he has borrowed from them.

The attempt to revive this method, which has of late years been made by Professor Mohs, the acute and intelligent successor of Werner, seems to us, therefore, as equally furnishing matter for regret and reprehension. No acquaintance with minerals however extensive, can ever qualify an individual to frame a system of mineralogy worthy of attention, agreeably to

a pure natural-history method. Fortunately, indeed, the formation of such a system, in the present state of science, is encumbered with so many difficulties as to render the attempt in the highest degree unpromising.

The chief difficulty to be encountered arises from the circumstance already mentioned, that mineral species occur in such different states and conditions, that the description of one state would not serve to characterize the others, there being frequently no one character possessed by them in common. Let us suppose that a natural historian had attempted to define the old genus or order *SPARS*, and had fixed the characters of the species *Calcareous Spar*;—he could not, in conformity with his principles, arrange Limestone and Chalk as varieties; for unless we advert to their physical or chemical properties, they do not appear to have any common character. These individuals would therefore be inserted as species, in other genera or orders, in a separate place in the system. But while individuals of the same species would be excluded from their proper place, individuals belonging to different species would be introduced in consequence of their agreement in one or two external marks. Species, genera and orders, thus formed from characters, legitimately within the province of natural history, must necessarily include substances which have only a partial similitude, and produce a separation of others essentially related. But as these absurdities would be too numerous and glaring in a system founded exclusively on a *natural-history* method, assistance has been derived from the hardness, the specific gravity, and the primitive forms of minerals; characters discovered not by observation, but experiment—not by history, but science. In this boasted method, in which natural philosophy furnishes the characters of the classes and orders, and geometry regulates the genera and species, the rank of the subspecies is necessarily determined by the aid of chemistry.

It has been stated by some naturalists, that, in mineralogical systems, *perfect* species only should be arranged, or such as exhibit regular external forms. This view is supposed to be countenanced by the practice of naturalists in the construction of their zoological and botanical systems, where the characters are taken from mature individuals. But the analogy here fails. Young plants or animals will naturally reach maturity, and as naturally decay. They are obviously either approaching or receding from the mature state. In contemplating, therefore, a mature being, agreeably to the rules of natural history, we can place before us in description the stages through which it has passed, and the changes it is destined to undergo. Observa-

tion here furnishes the links by which we can connect the old with the young, and both with the mature individual. But natural history does not qualify us, in the same manner, for establishing the connection between the different states of a mineral species. Will chalk naturally become limestone and calcareous spar, and again be resolved into calcium, carbon and oxygen? Observation intimates no such transitions. Chemistry alone announces that they are possible, and indicates their relations. A mineral species is only *imperfect* in reference to some arbitrary standard, and its comparison with that standard must be conducted under the guidance of chemistry. But the chief objection against the division of minerals into perfect and imperfect, and the rejection of the latter as unworthy of the consideration of the systematical inquirer, arises from the circumstance, that we should thereby exclude by far the greatest portion of the natural subjects of the inorganic kingdom;—those substances which are most interesting to the geologist, and most useful in the arts of life.

The method in question, if adopted in the present day, is likely to become as injurious to the interests of mineralogy as it proved to the progress of botany. When this method, commonly called the *artificial method*, prevailed in botany and zoology, all attempts to determine the relative value of characters derived from structure or function, were slighted, and sometimes ascribed even to a spirit of idle curiosity or petulant innovation. Among students in general, the attention was almost entirely confined to the mere art of *naming* objects; and hence these departments of knowledge declined in the estimation of philosophers. When, however, the attention of naturalists was in some measure withdrawn from the exclusive consideration of external appearances, and directed to the intimate structure and uses of the different parts of organized beings, discoveries multiplied rapidly; new relations were unfolded; and botany and zoology assumed a more imposing station among the sciences.—We shall now make some observations on the *Crystallographical method* of investigating and distributing minerals.

Crystallography has of late years reached a great degree of precision, in consequence of the invention and use of the reflecting goniometer. Nearly all known minerals, in a crystallized state, have been reduced by subdivision to their primitive form; and the relations of the planes bounding this form, and of those which may be termed derivatives, have been measured with care. By this process, the characters derived from the value of the angles of the external or cleavage planes,

enable us, with considerable facility, to recognise all the individuals of a species occurring in the crystallized state. When the analytical operations of the chemist have determined the composition of one of these individuals, the other individuals, possessing similar characters, may be supposed to consist of similar ingredients. If we were to admit that such an inference would be correct, the importance of crystallography would be evident. Here, however, the triumphs of the method cease. It frequently cannot determine the name, or the relation, of the individuals of a species, crystallographically ascertained; this is uniformly the case where those individuals occur in a gaseous, a fluid, an earthy, or a compact state. In such circumstances, the follower of this method must either admit its great imperfectness, or regard with indifference, as imperfect minerals, those which occur in the states to which his method does not apply—or, which is the same thing, reject, as unworthy of scientific arrangement, the most numerous and the most valuable minerals of the globe.

But the crystallographer is bewildered in his inquiries, by other circumstances over which he has no control, and from which he cannot extricate himself, by the aids at least, which his own peculiar resources furnish. Not a few minerals exhibit the same primitive form, and the same external shapes; as the cube, dodecahedron, and regular octohedron. In these circumstances, he cannot rely on his own measurements, as indications of species, but has recourse to the characters furnished by some of the other methods employed in mineralogy; thus rendering his species dependent on principles which he affects to undervalue.

It has been already stated, as a law in mineralogy, that the individuals of the same species, in similar states and conditions, always exhibit the same properties. But, unfortunately for the crystallographer, the converse of this does not hold equally true; or, in other words, the external form is not always to be depended upon as an index of composition. The experiments by which this inference is warranted, have been executed at different periods, by Bernhardt, Bucholz, Beudant and Wollaston. It appears from these, that crystals may be obtained (consisting of definite compounds occurring in nature), composed of 85 parts of sulphate of zinc, and 15 parts of sulphate of iron—of 91 of sulphate of copper, and 8 of sulphate of iron—and of 72.75 of sulphate of copper, 24.25 of sulphate of zinc, and 3 of sulphate of iron; and yet all of them exhibiting the determinate form of sulphate of iron. Crystallography may therefore pronounce a compound to be sulphate of iron, in which that

species constitutes only 3 per cent. ! To this statement, the crystallographer may perhaps reply, that these are extreme cases, and have occurred only in the imperfect productions of the laboratory. But examples of the power of some species to give their crystalline forms to a large portion of another species, are of frequent occurrence in nature. Large crystals usually contain much adventitious matter. In such cases, the external form is frequently simplified, and the planes have a tendency to curvature. Even in small crystals, the chemist seldom fails to detect one or two per cents. of foreign matter; nor are the indications of mixture less equivocal when the assistance of the microscope (an undervalued instrument in mineralogy) is resorted to.

We have indirectly admitted, that these anomalous examples may be regarded as mixtures. But there are cases, and these too occurring in nature, to which such an explanation will not apply. This is particularly exemplified in those minerals, in which one substance is known to be capable of replacing another, in a compound, without altering its primitive form. Such substances are said, in the language of the Stockholm School, to be *isomorphous*. Transpositions of this kind are known to take place in the crystallographical species, Augite, Hornblende, Mica, and Garnet. In the Augite, for example, the same crystalline form is common to minerals containing (besides the silica essential to all of them) 49.04 of protoxide of manganese, and 3.12 of lime; 22.19 of lime, 17.38 of protoxide of iron, and 4.99 of magnesia; 23.57 of lime, 16.49 of magnesia, and 4.44 of protoxide of iron; 20.87 of lime, and 26.08 of protoxide of iron; and 24.76 of lime, and 18.55 of magnesia. These experiments, regarded as among the most accurate in modern analysis, irresistibly lead to the conclusion, that a crystallographical species, may include several chemical species; and that the primitive form, even when not a regular geometrical solid, may give false indications of composition. M. Mitscherle's doctrine of *isomorphism*, while it thus establishes the fact, that, in many cases, form is not the index of composition, forbids the crystallographer to consider his method as a certain guide in mineralogy; even in reference to minerals occurring in the state best suited for the display of his skill.

There is yet another circumstance, which merits attention, as it affects the degree of confidence which we can place in crystallographical indications. Similar cleavage planes in different individuals of the same species, meet in some cases under angles of different values. These differences are stated by the author of the work before us, as amounting even to forty minutes of a

degree. If we assume 40' as the limit of error, it will enable us to estimate the claims of certain species, when these rest merely on the value of their angles. Arfvedsonite is said to differ from Hornblende by 35', or 5', within the limit of error; while Carbonate of Magnesia and Iron from the Tyrol, differs from Carbonate of Iron by 43' or 3' beyond the limit of error.

The qualities of minerals with regard to *Light*, have of late attracted the notice of scientific inquirers, and a rich harvest of discovery has already been secured. Many of the most important of the results on this subject, we owe to the discriminating sagacity and persevering industry of Dr Brewster. By the agency of light he has established this important conclusion, that the primitive forms of crystallized bodies may be inferred with confidence from the number of their axes of double refraction,—conditions necessarily resulting from mechanical structure. This *optical method* has corrected many previous determinations of primitive forms, given by the most eminent observers; and has indicated the existence of distinct species among individuals, where the crystallographer and chemist had failed to detect any difference. The resources of the optical method are more numerous than those of the crystallographic, inasmuch as fluid bodies and transparent compact ones can be submitted to its instruments. It is much to be regretted, that no detailed account of the observations which have been made in optical mineralogy, has yet been communicated to the public. It is pretty clear, however, that this method must necessarily be confined in its application: it must prove inapplicable to earthy minerals for example, and to a great number of the most valuable but opaque metallic ores. The optical mineralogist, like his predecessors, is compelled to divide minerals into perfect and imperfect, but without thence inferring that the latter epithet is descriptive of his own system.

The most prominent defect of the methods to which we have referred, consists in their inability to determine the identity of individuals belonging to a mineral species, when these happen to be presented in different states. But even in those cases, where these methods are applicable, the information which they yield is unsatisfactory. The naturalist, crystallographer, and optician, may unite in establishing a new species, and yet the essential qualities of its nature may remain unknown, since its composition is not determined. The resources of the *Chemical method* on the other hand, are more numerous, and yield more satisfactory results. The chemist can determine, and with equal precision, all the individuals of a species, whatever be their state,—gaseous, liquid or solid, compact or crys-

tallized. With him there is no distribution of minerals into perfect and imperfect—such as admit of classification, and such as baffle all attempts at arrangement. If it be admitted that the essential qualities of mineral species depend on the ingredients which enter into their composition, that method, by which the nature of these ingredients can be satisfactorily determined, is the one which ought to exercise the greatest influence on mineralogical arrangement.

Not many years ago, the chemist fancied he had sufficiently determined the nature of a mineral species, if he succeeded in estimating the relative proportion of its ultimate elements. In such a state of science, the analysis might have been accurate, but it was unsatisfactory; for no decided opinion could be formed either with regard to the proximate elements of the species, or those ingredients which were accidentally present as mixtures. Fortunately for the science of chemistry, and equally so for that of mineralogy, the doctrine of *definite proportions* has, of late, been established on a broad basis of experiment and induction. By the aid furnished by this doctrine, the proximate elements of a species can now be deduced from its ultimate elements; and the nature and quantity of the mixtures which prevail, inferred under the guidance of the same rules. But while we admit that the chemical method is preferable to the others, in the superior certainty and utility of its deductions, we must, at the same time, notice some imperfections.

That the art of chemical analysis is yet far from perfect, may reasonably be inferred from the almost daily changes which are taking place, in the opinions of chemists, regarding the number and nature of the elementary principles of bodies belonging to the inorganic kingdom, and regarding the methods which should be employed in their detection. But in consequence of these changes, numerous improvements have been introduced; checks upon inaccuracy have been multiplied; and the processes of manipulation simplified. Perhaps, therefore, we may concede to Berzelius and other chemists, that it is in their power to estimate the proportions of a compound to within $\frac{1}{1000}$ part of the weight employed. It is proper, however, to mention an acknowledgment by the observer first named (made in the same paragraph in which the boast of accuracy is announced), that ‘very frequently, notwithstanding all his care, the results have not agreed perfectly beyond the hundredth part.’

A single analysis of a mineral, even though performed with great care, is not sufficient to determine its nature. The speci-

men operated upon, may have been mixed with a portion of the rock in which it was imbedded. It is only by repeating the analysis on specimens brought from different places, and which have been associated with different minerals, that the chemist can hope to secure satisfactory results; since, in these cases, the mixture will vary in quantity, while the elements of the mineral will preserve the same ratio in all. It is to be regretted that this precaution has been so little attended to in chemical mineralogy.

Of late years, several new substances have been discovered, together with suitable methods for detecting their presence, and estimating their quantity—such as the metalloïd Selenium, the earth Thorium, the alkali Lithium, and the metal Cadmium. Those analyses which were performed previous to their discovery, must now be regarded with suspicion; and their repetition is imperiously called for.

The progress of chemistry not only affects the credit of mineralogical analysis, by bringing to light new objects, which were formerly included in the estimate of known ingredients, but operates in an equally efficient manner by discovering new conditions existing among objects already known. Thus, Sir Humphry Davy, Mr Gregor, and M. Klaproth, in their analysis of Wavellite, relying on the accuracy of their knowledge of alumina, suffered *thirty-five* per cent. of phosphoric acid to escape their notice, though an essential constituent of the mineral! From their experiments it was considered to be *hydrate of alumina*; afterwards, upon the discovery, in some specimens, of a little fluoric acid, it was conjectured to be a *subfluat* of alumina; but since the discriminating investigations of Professor Fuchs, it now ranks as a *hydrated phosphate of alumina*, in which, however, the alumina appears to be in excess;—an occurrence to be expected from the geognostical relations of the specimens hitherto examined. The credit of all analyses, in which alumina is stated as an ingredient, is now shaken, until experiments shall be instituted to prove the absence of phosphoric acid with which the alumina may be in combination.

In mineralogical inquiries, the chemist, we fear, is sometimes also misled by his prejudices. We do not here refer to the partialities which chemists may be supposed to have in favour of the peculiar processes or reagents they may have devised, but to the direct influence which the doctrine of definite proportions exercises over their reputed experimental results. We are very far from undervaluing this guide in analytical research.

But it should be recollected, that, while it has enlarged our views of the nature of known compounds, it furnishes no ground for concluding, that new compounds may not be looked for. When the chemist, under the influence of the prejudice now referred to, compares the results of his processes with those which theory indicates, he is in danger of attributing the differences to errors of manipulation;—to add or subtract until he brings the whole to an agreement, and exchange experimental for theoretical philosophy. The results are thus corrected by data which, in their turn, may be pronounced erroneous. In no case is this theoretical prejudice better exhibited than in the history of the silicates. Silica is now generally considered to exist in many mineral species in union with other earths, acting the part of an acid. It has, however, been found in such variable proportions to the other earths, as to perplex, in no ordinary degree, the cautious inquirer. But the theoretical chemist finds no difficulty. Should the silica be in defect, the compound may be a *sub-silicate*, *subsesqui-silicate*, or *subquadri-silicate*. Should it be in suitable quantity, or in excess, it may then constitute a *silicate*, *bis-silicate*, *tri-silicate*, *quadri-silicate*, or *sex-silicate*. The mere enumeration of these compounds is sufficient to excite distrust, particularly in the present state of experimental inquiry; and several considerations induce us to regard many of them as theoretical delusions. Silica, it is well known, occurs in nearly a pure state in the form of rock-crystal and quartz, in every kind of rock, and associated with nearly all minerals. It appears, indeed, to have a greater tendency to crystallize separately, than to enter into union with other substances. It may therefore be expected as foreign matter in nearly all minerals, and should not be considered as an element of any body, unless it has been found constant in its proportions in different specimens collected in dissimilar circumstances. It is probable that some of the more active acids which are so extensively distributed in the mineral kingdom, may be in definite union with a base, and this compound be a mixture in different species, in which it is now considered as an essential proximate element. Such are the fluoric, boracic, and muriatic acids. The last substance may always be expected, as a muriate of soda, in specimens taken from the surface of the earth; as it is widely distributed through the atmosphere during storms at sea, and precipitated along with rain.

There is still another source of imperfection in chemical mineralogy, arising from this, that the chemist too often either

neglects or declines to take assistance from the naturalist, the crystallographer, and the optician. The chemist who has succeeded in determining the ultimate and proximate principles of a mineral body, and in separating the mixed from the united ingredients, should not thence conclude, that all the knowledge necessary to the right understanding of the mineral species in question, has been acquired. It remains for him to determine the natural history, crystallographical, and optical characters which it exhibits; that by their assistance he may be enabled to fix on such discriminating marks as may enable other observers to determine the species upon which he has operated, without being obliged to have recourse to the same analytical investigations. It is only by the united efforts of the different methods that the progress of mineralogical science can be successfully promoted. Each has its advantages and its defects. Nor is it to be concealed, that the aids furnished by any one of the methods are usually most efficacious where the resources of the others have failed.

It is now time to observe, that though Mr Phillips by no means fulfils the conditions which we would impose on an author attempting to give a systematical arrangement of minerals, his Introduction to Mineralogy conveys much valuable information in a condensed form. The principle of arrangement may be considered as chemical, but without any attention having been paid to the more recent improvements in the science. Throughout the work, for example, the analyses of the species are given without any attempt to connect them with the doctrine of equivalents. The chemical system of Berzelius, even with all its faults, if employed as a guide, would, we think, have enabled Mr Phillips to have framed a method more suitable to the present state of science, and to his own attainments in mineralogy. The natural historical and physical characters of the species, together with their localities, are given imperfectly, and even carelessly. But these faults are in some measure atoned for by the minute crystallographical details with which the work is enriched. To each species, there are figures annexed, exhibiting the primitive form and its modifications; and the value of the different angles are given at length on the margin. To those, indeed, who wish to become acquainted with the crystallographical characters of minerals, the present work will prove a valuable guide.

Mr Phillips has in general adopted the nomenclature of Werner, in preference to the designations which the late M.

Haüy attempted to introduce; and he has done right. The terms of Werner were well known, and in common use. Those of Haüy were not more agreeable to the ear, not more expressive.

NOTES BY THE EDITOR.

IN our Number for last May, p. 306, there is a passage which imputes to Mr Hone a piracy of Mr Moore's poems. Upon inquiry, we find that there is not the least ground for such an imputation. It is of no consequence now to explain how the author of that passage was led into the error; but it is no more than justice to Mr Hone to state, that the result of a very diligent investigation has been to satisfy us, not only that he is perfectly free from blame as to the publication, but that, in the whole course of his professional dealings, he has conducted himself with the most unimpeachable fairness and propriety.

IN the same Number we have mentioned, at page 381, 'the princely *gift* of the Barberini Vase by the late Duke of Portland,' to the British Museum. In this statement we now find we have been mistaken. The vase was not *given*, but *lent*, by the noble proprietor, to this great national collection—and it is to the *present* Duke, and not to his Father, that the public are indebted for this liberality.

WE are requested by the author of the Article on 'the Geology of the Deluge,' in our last Number, to state, that the first foot-note to page 197, and the note at page 230, are not of his writing—and that he had no opportunity of correcting the proof sheets of that Article.

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INDEX.

A

Act of 1701, should undergo revision, 380-2.

'*Adam Blair*,' the story, 185—a specimen, 186.

Advocates, number of, 377—offices for, 378—the emoluments, 379

Advocate, Lord, of Scotland, is invested with a large discretion as Public Prosecutor, 365, 6—splits himself into various Deputies, 368—is the Privy Council, Grand Jury, &c. of Scotland, 369, 370—views of those who are satisfied with the office, and of those who would abolish it as an abomination, both incorrect, 371, 2—the chance of his being quite candid when his place or his party are at stake, judged of, 373, 4—this not removed by saying persons of high character must be raised to the office, 374, 5—should be obliged to act as a political character in an infinitely less degree, 375-9—ought never to be Secretary of State for Scotland, 380.

Alliance, the Holy, a strange and portentous confederacy of Sovereigns against the improvement of mankind, 468—were willing tools of Napoleon, *ib.*—their hypocrisy disgusting, 469—our ministers lulled by their high-flown phrases of mock religion, 470—but have since caught a glimpse of the truth, 471, 2—attacked Spain under pretences the most shameless ever exhibited to the indignation of mankind, 476-9—samples of the topics urged, 477—would extend their blessings to the New World; the United States have declined the obligation, 487.

Angouleme, Madame de, 'Narrative' by, a short and meagre tract, devoid of interest, 91, 2—Count Fersen's share in the expedition, 'the scandal of Paris,' not alluded to, 94—Private Memoir by, during her imprisonment, 100.

Annals of the Parish, account of, 162, 3—a few specimens, 163-170.

Appellate Jurisdiction of the House of Lords, changes in the, proposed by a Committee of their Lordships, 432-443—the scheme brought out with much preparation and stage-effect, 444—'that a Speaker be appointed' (not a member of the House); the most inconsistent and absurd thing ever invented by the wit of man, 445, 6—even supposing him a Lord of weight in the House, the exposure made by the plan, merciless, 447, 8—the voluntary dilemma of their Lordships will be perceived by the people, *ib.*—

the objection equally obvious with respect to the Peers themselves, who might take a part in the business when compelled to attend, 449—to separate the Speakership from the Great Seal, fatal, 450—5—two objections on constitutional grounds, 456, 7—the language used, upon the change introduced at the late King's accession, most absurd, *ib.*

Arabian literature, rapid growth of, a striking phenomenon, 394—*influence of, on Spanish*, 397.

Arbitrary governments, present policy and future fate of, 282. See *Governments and Monarchy*.

Armour, the use of, first suggested by the pleasures and dangers of the chase, 348—its peculiarities in different states, 349—reasons for a re-arrangement of the Royal Collection, 361—noble and generous associations excited in us by an inspection of the armour of our ancestors, 361, 2.

Artisans, oppressive statutes passed to prevent, from emigrating, and from exporting machinery, 341—these inefficient, as well as unjust, 342—5.

Austria, the most vindictive and low-minded of the confederated despots, 289, 473—efforts to conciliate the lower classes, by regulations for the improvement of agriculture and manufactures, &c. made even by it, *ib.*

B

Badelly, Dr John, narrative by, of an extraordinary cure, 56—his facts of suspicious accuracy, 57—his reasoning more confused and unsatisfactory, *ib.*—singular specimen, 58.

Bankes, Mr, representative of the notion about forcing mankind by pains and penalties, 48—consequences of the worthy Errorist's bill, 45.

Bourbons, list of Royal authors swelled by, 91—108—strictures upon the Editor, *ib.*

British Finances, progress of the public debt since 1793, 23—9, 42—financial statements of Ministers carelessly got up, and little credit due to them, 39—they have been nugatory, fallacious, and unfounded, 41.

Buckland, Rev. W., Reliquiæ Diluvianæ by, 196—excellent observations of Bishop Burnet he should have considered first, 197—8—account of the book, 207—inferences it goes to establish obviously opposed to the Mosaic narrative, 233.

Burns, entertained mistaken notions of independence, 71—peace to his memory! 72.

Castlereagh, Lord, implicitly trusted in the integrity of the Holy Allies, 470—his taunts on all who suspected them bitter, 471.

Caves, very ancient, in secondary limestone, 217—remarkable series at Plymouth, 219—account of German caves, 220—2—contents of the cave of Kirkdale, curious, 209.

- Chancellor*, the Lord Hlgb, general opinion in favour of his qualifications, why, 450—why should he have less time now than formerly, for the discharge of his judicial functions? 437-8.
- Chivalry*, origin of, 353—thirst for renown, and recklessness of personal exposure, in our Scottish nobility, 355, 6.
- Christiana*, state of society in, 141.
- Chronicle*, Latin, of Turpin, outline of its contents, 408-411.
- Clarke's Travels* through Denmark, Sweden, &c. 140, *et seqq.*—favourable specimen of his powers of description, 145.
- Clarkson*, T., Esq., 'Thoughts' by, on the improvement and emancipation of the slaves in the British colonies, 118—preface to the work, 121—cases showing the practicability, safety, and advantages of their emancipation, 127, *et seqq.*
- Climate*, our, change of, probable, 214.
- Combinations*, the consequences of, not such as to warrant their prevention by law, 318, 320—workmen suffer more from a *strike* than their masters, 321, 2—resorted to by the *masters* for reducing wages, 324, 5—these associations actuated by what spirit, and resort to what means, 328—the mystery of Scotch combinations explained, on the principle that the Court of Justiciary has power to declare any thing it chooses a crime, 336.
- Combination Laws*, history and character of the, 315-16—engender a deadly habit between the different orders of society, 330—incline the generality of men to combine to overturn the Legislature! 331—abolition of, would be wise and salutary, 332—sufficient specimen of, in Scotland, 337-340.
- Costume*, chronology of, 348.
- Count Irlos*, ballad of, containing beautiful description of feeling, 415.
- Country* of our birth endeared to us by the tenderest ties, 342.
- Court of Chancery*, account of the origin and business of the, startling, 246—the Lord Chancellor beset with difficulties in the upright discharge of his duties, 247, 8—the attention of the public fixed on, whence, 252—proceedings in the House of Commons respecting, 253—no adequate remedy provided, 254—a cause sailing in, an annuity to the Solicitor, 256.
- Court of Justice*, of curious constitution, proposed to be made of the Lords, by a committee of their own, 447-9.
- Crystallography*, has reached a great degree of precision, 493.

D

- Debt*, Public, of Great Britain, progress of the, since 1763, 23—unredeemed, funded and unfunded, charge for it, expenses of management, &c. from 1816 to 1823, *ib.*—from 1793 to 1816, 24.
- Deluge*, universal, 215—evidences of it presented by the surface of the globe, 225-8—the antediluvian surface the same as the present, 229—the submersion rather successive than simultaneous, 250.

Doctors of Bamberg and Dublin, are attempting to palm gross impositions upon the world, 60-3, 65.

Domingo, St., slaves suddenly liberated in, quiet and industrious, 130—ample testimony to their situation during Toussaint's reign, 131, 2.

Don Roderick, ballads relating to the defeat of, 416.

East India Company, treat with contempt and scorn the statutes passed by the collective wisdom of the Great Council of the Nation, 464-6—plunder their fellow-citizens with a spirit of unparalleled rapacity, ib.

Earth, 'belly' of the, described by Robinson, rector of Ouseby, in Cumberland, 200—its whole internal structure by Catcott, 203—Kirwan's wild proposition respecting, 205.

Eldon, Earl of, advantageous situation of the, as the Lord Chancellor,—has availed himself of it how far, 249—decisions of the, exclusive of all conclusion, 251—remarkable and peculiar case, 258, 9.

Europe, Continent of, presented a spectacle at once humiliating and frightful, 282—deduces a moral from the great and agitating drama, 284, 5.

F

Ferdinand VII., picture of, who is held up by the Holy Alliance as the sample of legitimate monarchy, 484-6—it may prove instructive to other nations, ib.

Foreign Policy, Our, our remark six or seven years ago, on the results of, since confirmed, 488.

French Government, has acted most falsely and deceitfully towards Spain, 479-481.

Funding System, unfounded opinions respecting, 3—supplies easily obtained by, 5—this one of its great defects, 6—the argument of distributing the expenditure over a lengthened period, fallacious, 8—absolute waste of the national resources occasioned by, to the extent of *one hundred and forty-six millions!* 24-31—its injurious effects anticipated by Hume and Smith, 18—experienced in Holland, 19—France, 20—Great Britain, 21, *et seqq.* See *Sinking Fund*.

G

Game, any description of, may be had to any amount, 43, 4—dealing in, not discreditable, 46—not considered as property by the common people, 47, 8-50—thence impossible to prevent the sale of, 48—the experiment of legalizing the sale of, ought to be tried, 54.

Game-laws, engender a ferocious spirit in the common people, 46-51—teach a memorable lesson on the philosophy of legislation, 48-50.

- the argument against the alteration of, because it would drive gentlemen out of the country!—grossly absurd, 49—the plan of the new bill—that qualified persons should sell to licensed distributors to the public—would prove successful, 51—4—some alteration must take place, *ib.*
- Geology* of the Deluge, history of the, 196—humble qualifications of writers on the, in the 17th century—Robinson, 199—Hutchinson, 201—Catcott, 202—Kirwan, 204—appearances demonstrating a universal inundation of the globe—three distinct epochs.
- Governments*, arbitrary, recently strengthened by what circumstances, 286—hitherto singularly ignorant and prejudiced, *ib.*—a new era begun—propose on the strength of improvements to wage a fierce war on liberty, 288—compensation ultimately to be made for the present security and imposing attitude of, 290—superiority of constitutional governments to, 295—6—genius and energy of character never thrive but in a free country, 297.
- Granada*, ballads relating to the civil wars of, 418.
- Grand Juries*, on the proposal of introducing, into Scotland, we have been long in making up our minds, 387—under certain regulations, would be beneficial, 388.

H.

- Harmony*, intimately connected with melody, 74—those who would place them in opposition appeal to Rousseau—an authority of little value, 76.
- Headlam*, Mr, Letter by, to Mr Peel on Prison Labour, 299—reasoning of, on what prison law ought to be, held out to public notice, 302, 3—perpetually confounds the convicted and the accused, 305—his panacea for all poor prisoners is the atrocious cruelty of the Tread-mill, 308.
- Hohenlohe*, Prince Impostor, works miracles in the gross by whole districts, 59—the chiefest of enthusiasts or dissemblers, 55—66.
- House of Lords*, mode of inquiring into the increasing delays in, by a Committee, excited much observation, 433—history of the facts regarding the arrear very instructive, 434—5—some change proved to be necessary, 436—the machinery of 1813 has failed, whence, 438—9—loose assertions of the Lords' Report respecting the augmentation of Equity business to be received with caution, 440.
- Hume*, Mr, sample of his accuracy—his mistakes favour the Stuarts, 89.
- Hutchinson*, J., Esq., the founder of a sort of geological school, 201—his insolence in speaking of Newton, 202.
- Hyenas*, particulars respecting, 211—their mode of proceeding in the destruction of bones, 212—once lived in England, 213—when, uncertain, 214.

Johnson, Dr, lent a ready ear to ghost stories, 65.

Jorge Manrique, beautiful poetry by, on the death of his father, 429.

Judges, to influence, by promotion, ought to be checked, 456.

Justiciary, Court of. See *Scotland*.

K

Kolli, Baron de, commissioned to manage a plot of the English Government, 235—eminently deficient in caution, circumspection, and secrecy, *ib.* 240—his imprisonment, and attempt to escape, interesting, 242.

Liberty, justly declared by Lord Grenville to be the birthright of man all over the globe, 125.

'*Lights and Shadows of Scottish Life*,' account of, 180—specimens, 181–5.

Linnaeus, tomb of, 149.

Literature, something melancholy in the decline of 394, 431.

Loans, effect of, on national wealth, 4—loans contracted from 1793 to 1816, charges, &c. 28.

Louis XVI., after his sentence, appealed to the Primary Assemblies, 105–6.

Louis XVIII., Narrative by, of his escape from France, without merit, 94.

Louvois, plan of, affording delusive and momentary relief, fatal to France, 20—the ministers of George II. and George III. all bred in his school, 22.

Love poetry, Spanish, with an appearance of profusion, exhibits a real poverty of sentiment, 423—exceptions, specimens exquisitely graceful and beautiful, 424–6—fear of a country maiden who had dropt her lover's present into the well, 420—Finnish specimen, written by a girl on the absence of her lover, 155.

M

Marquis of Mantua, famous ballad of the, 412–4.

Meyrick, Dr, inquiry into ancient armour by, 346—conducts through a splendid succession of scenes and events, 347—derivations diligently collected or ingeniously devised, 350, 353–5—exceptions made from the praise conferred, 359.

Mineralogical Systems, remarks on the diversity of, 488—the natural-history method of determining a species reprehensible, 491—fortunately difficulties rendering it unpromising, 492—the crystallographical method, 493—optical, 496—chemical, *ib.*—the chemist misled by his prejudices, 498—he neglects or declines to take assistance, 500.

- Mines of Presburg*, descent into the, described, 145.
Minstrels of Scotland, curious enactment regarding the, 83—knew no distinction between the noblest actions and the most reprehensible, 402, 404.
Miracles, pretended to have been performed by the incantations of his High Reverence, Prince Hohenlohe, chief conjuror at Bamberg, 59—by the late Mr Loutherbourg, landscape-painter, 58—and by giving the glorious and immortal memory, 64.
Modena, persecutions suffered by the Liberal party in the dutchy of, 473-6.
Monarchy, absolute, hands of, strengthened by what circumstances, 286—efforts to secure advantages to the cause of tyranny, 287-8—as arbitrary monarchs, may come to prefer the safe and honourable control of national representatives to the ignominious dominion of interested and incapable individuals, 294.
Moore, Mr. M. P., bill introduced by, for repealing the laws against combinations, loaded with a multitude of confused and perplexed clauses, 317.
Music, a subject on which every body is ready to dogmatise, 74—the system of Rameau, 77.

N

- Negro* emancipation and improvement, Society for promoting, abide by a sure test, 118—principles which animate us through this question, 120—the promoters of the abolition never pretended that they were only at war with the traffic,—quotations from Sir Samuel Romilly's most eloquent speech, 123—Mr Sheridan, 124—Lord Grenville, 125—Duke of Northumberland, *ib.*—the fears of rebellion from emancipating the slaves chimerical,—this proved by experiments, 126, 139.
Notes by the Editor, 260, 501.

O

- Obo*, third town in Scandinavia, 153-4.
Oland hut, internal economy of an, 151.
Otranto, Duke of, obliquities of the, covering his Grace with disgrace—coolly and deliberately avowed, 240-2.

- Paul*, Emperor of Russia, absurdity and insanity of his conduct, 156.
Penn, Granville, Esq., strange geological supposition of, 206.
Prelacy in England, its retinue in former times overwhelming, 350.
Price, Dr, globe-generating penny of, 34—Mr Pitt's famous sinking-fund founded on his principles and calculations, *ib.*
Prisoners, untried, who do not choose to work, magistrates compelled to maintain, 300—addressed by him of the quorum in what style, 307—untruly stated to be better off than previous to accusation,

308—the privileges given by law to, not great, 366—ought not to be punished because suspected, 303, 313—absurd notion of some gentlemen respecting the treatment of a person once in prison, 312.

Professional classes, an income tax would not fall with disproportionate severity on the, 13—even when only imposed during the continuance of a war, 14.

'*Provost, The*,' the most remarkable and edifying thing in, what, 171—extracts, 172-7.

Q

Quarterly List of New Publications, 261, 502.

Queen of Etruria, touchingly records her wrongs, such as the necessity of occasionally eating off china, 245.

R

Revelation, our belief in, too firm to be shaken by any failure of coincidence between the results of physical inquiry and sacred history, 229—the attempt to connect those in geology premature and dangerous, from its imperfect state, 197.

Revenue and expenditure, present state of, 42.

Roscoe, Mr, our old friend will be conciliated, we hope, 314—men have different tastes, but why so cross? ib.

Royal Authors, why rare and mediocre, 85—Frederic II. of Prussia the best, ib.—James VI. a man of learning, destitute of genius, but endowed with some cleverness, 86—composition of Charles II. mean—his account of his concealment in the oak, 88—another extract, the best passage in the book, 90—Bourbon Authors, 91, 94, 100.

Rules, general, eagerly protected by sensible men, even when doing more harm than good, 309.

Scotland, political system of, very defective, 363-4—must undergo complete revision, 392—Combination Laws of, 337—Justiciary Court, its '*native vigour*' monstrous, 337-340, 383—it obstructs the acquisition of right judicial habits, 385—the impossibility of reconsidering sentences indefensible, 384.

Scottish Novels, secondary, our neglect of, refutes the charge of national partiality, 159—general account of them, 160-1—Annals of the Parish, 162—The Provost, 171—Lights and Shadows of Scottish Life, 180—Adam Blair, 185—The Trials of Margaret Lindsay, 189; *quæ vide*—The Ayrshire Legatees displays considerable powers, 170—Sir Andrew Wyllie not so good, 177—Ringing Gilhaize tiresome, and without effect, 178—Valerius original, but not successful, 179, 180.

Shooters, a vast multitude of, are of no service to the country, 49.

Silver Mines at Konsberg, 143.

- Sinking Fund*, origin of, 31—soon perverted from its original destination, 32—does not operate at compound interest, *ib.*—a clumsy compound of delusion and quackery, 34—loss occasioned by the Commissioners, to the country, of 602,830*l.* during the war, 35—looked upon by Ministers as a fund which they may squander with safety, 32, 37—*sinks* the public in debt and difficulties, 41.
- Slave system*, but one conceivable justification for the continuance of the, 120—abolition of, will be profitable, 127, *et seqq.*
- Smyth*, Professor, a writer of great taste and sensibility, 80—specimens, 81–2.
- Songs*, the first lessons and memorials of savage virtue, 67—contribute to refine by fostering generous feeling, 68—a powerful engine either for good or ill, *ib.*—influence on the Scottish character striking, 69—voluptuous and seductive among the higher classes, 71—happy specimens of the poetry contained in Mr Thomson's *Melodies*, 78–82.
- Spanish Literature*, sketch of, antecedent to the age of Charles V., 393—influence of Arabian upon, not equal, 397—ballads from a rich fund of materials, 399—causes of their superiority, 401—indicate a spirit of humility and gentleness, 403–412—passages from the Marquis of Mantua, 413—Count Irlos, 414—the defeat of Roderick, 416—his flight over the plain of Xeres, 417—the civil wars of Granada, 418—La Nina Morena, 420—Amatory poems, 422–6—religious, 426–8—moral, 428—beautiful poem by Jorge Manrique, 429—looked back upon with melancholy reflections and gloomy anticipations, 431.
- '*Speculum*, *Regale*,' extracts from, curious, 352.
- Steele*, Mr Joshua, admirably improved the condition of his slaves in Barbadoes, 134–5—changed them into copyholders, 136—the results gratifying, 137.
- Stockholm*, state of literature and science in, 150.

Taxes;—a tax on necessities would not impose a heavier burden on the labouring classes, than on any other, 12—an income-tax would not fall with disproportionate severity on professional men, 13—an income-tax preferable to those on necessities or luxuries for raising the supplies within the year, 15.

Tea, should be as low in London and Liverpool as in Hamburg and New York, 458—prices and quantities at the Company's sales in March 1823, 460—price currents in New York, *ib.*—on the Continent, 461—prices at New York and Hamburg contrasted with the Company's, 462—the monopoly enjoyed by the Company costs the people of this country two millions two hundred thousand pounds Sterling a year!—a most scandalous imposition, 463—it is now before the public, *ib.*—the high price of, not mainly a consequence of the duty payable to Government, 466.

Tread-Mill, to work at the, supposed by gentlemen not to be considered by the common people as a punishment, 304—a man not obstinately idle because he will not submit to it, 305—the degradation enough to revolt every feeling of an untried person, 310—an excellent method of punishment, but abused, 313.

'*Trials of Margaret Lindsay*,' has drawn more tears from us than any work we have had to peruse, 189—quotations, *ib.*—195.

Type-founders, business of the, unwholesome and disagreeable, and yet the rate of their wages unusually low, 227.

U

Upsala, changed condition of, 148–9.

W

Wages, the rate of, should be elevated as high as possible, 333–5.

War, expenses occasioned by, to be defrayed, how? 1—this a peculiarly fit period for discussing the question, 2 *et seqq.*—always a great evil, 6.

West India Islands, miserable management in our, 139—agricultural system in, far inferior to that in the East, *ib.*

Wool-Tax, history of the, curious and instructive, 110—most oppressive, 113—official accounts demonstrating its injurious effects, 114—singular condition of its repeal proposed by Ministers to the Manufacturers, 116.

Woollen manufactures, of paramount importance, 109—foreign competition in, with us, successful, 111.

END OF VOLUME THIRTY-NINTH.

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